



**STAFF REPORT AND RECOMMENDATION**  
*Planning Commission Hearing: April 8, 2019*

**FILE NUMBER:** GLUA-19-00001 (General Land Use Application), PARK-19-00001 (Parking Adjustment)  
SP-19-00007 (Site Plan and Design Review), MP-19-00001 (Minor Partition)

**APPLICANT:** Bruce Sohr, Norris & Stevens  
900 SW 5th Ave, Suite 1700  
Portland, OR 97204

**Submitted:** January 22, 2019  
**Complete:** March 1, 2019  
**120-Day Decision Deadline:**  
June 29, 2019

**OWNER:** John Parman  
16933 S Bradley Rd  
Oregon City, OR 97045  
Derek Harrison, OC Properties LLC  
33855 Van Duyn Rd  
Eugene, OR 97408

**REPRESENTATIVE:** Parish Burns, HHPR  
205 SE Spokane St. Suite 200  
Portland, OR 97202

**REQUEST:** The applicant requests a Parking Adjustment to exceed the maximum number of parking spaces allowed, along with a minor partition of the property at 202 Molalla Avenue and development of a 10-space parking lot on the undeveloped portion of 202 Molalla to serve the existing building at 221 Molalla Avenue.

**LOCATION:** 202 Molalla Avenue and 221 Molalla Avenue, Oregon City, Oregon 97045  
Clackamas County Map 2-2E-32CB Taxlot 07800 and 07300

**REVIEWER:** Kelly Reid, Planner  
Sang Pau, Development Project Engineer

**RECOMMENDATION:** Approval with Conditions

**PROCESS:** Pursuant to OCMC 17.50. The decision of the Community Development Director is final unless appealed to the City Commission within fourteen (14) days following the mailing of this notice. Only persons who commented in writing to the Community Development Director may appeal this limited land use decision. The request for a hearing shall be in writing. The request for a hearing shall demonstrate how the party is aggrieved or how the proposal does not meet the applicable criteria. The application, decision (including specific conditions of approval), and supporting documents are available for inspection at the Oregon City Planning Division. Copies of these documents are available (for a fee) upon request. A city-recognized neighborhood association requesting an appeal fee waiver pursuant to 17.50.290(C) must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal. IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE AT (503) 722-3789.

**Conditions of Approval  
Planning File GLUA 19-00001**

*(P) = Verify that condition of approval has been met with the Planning Division.*

*(DS) = Verify that condition of approval has been met with the Development Services Division.*

*(B) = Verify that condition of approval has been met with the Building Division.*

*(F) = Verify that condition of approval has been met with Clackamas Fire Department.*

**The applicant shall meet the following condition(s) at all times:**

1. The applicant is responsible for the project's compliance with the edition of the "Standard Specifications for Public Works Construction," as prepared by the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city, in effect at the time of application. (DS)
2. Error! Reference source not found. (DS)
3. All pavement cut and restoration shall be performed in accordance with the City of Oregon City Pavement Cut Standards. (DS)
4. The applicant may only add parking spaces above 101 spaces if the adjustment is approved by the Planning Commission. (P)

**The applicant shall meet the following condition(s) prior to issuance of construction permits:**

5. The applicant shall schedule a pre-design meeting with Public Works Development Services staff prior to initial submittal of Civil Engineering plans. (DS)
6. The applicant shall provide civil engineering plans stamped and signed by a professional engineer in the State of Oregon for review and approval by Oregon City Public Works. (DS)
7. The development's contractor(s) and engineer(s) shall attend a pre-construction meeting with Oregon City staff prior to beginning construction work associated with the project. (DS)
8. The applicant shall provide an engineered drainage plan, signed by a professional engineer in the State of Oregon, for review and approval to fully address all applicable Stormwater and Grading Design Standards. The applicant's engineer shall submit a completed Site Assessment and Planning Checklist, found in Appendix B of the Stormwater and Grading Design Standards.(DS)
9. The applicant shall obtain an Erosion control permit prior to commencement of any construction activities. (DS)
10. The applicant shall provide an Erosion Prevention and Sedimentation Control Plan prior to issuance of an erosion control permit. (DS)

11. The applicant shall submit a performance guarantee which is equal to one hundred twenty percent of the estimated cost of constructing the public improvements shown in a city approved construction plan submitted by the applicant's engineer. The estimated costs shall be supported by a verified engineering estimate and approved by the city engineer. The guarantee shall be in a form identified in Code 17.50.140.A of the Oregon City Municipal Code. The guarantee shall remain in effect until all improvements have been constructed and are accepted by the city. (DS)

**The applicant shall meet the following condition(s) prior to final plat of the minor partition:**

12. The applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the property and assessing the cost to benefited properties pursuant to the city's capital improvement regulations in effect at the time of such improvement. The applicant shall pay all fees associated with processing and recording the Non-Remonstrance Agreement. (DS)
13. The frontage along Myrtle Street, on the development's side of the centerline, shall be improved to have a 0.5-foot-curb, 5-foot-wide planter strip, 5-foot-wide curb sidewalk and a 0.5-foot-wide buffer strip. Roadway pavement within Myrtle Street, to and through the development property frontage, shall be no less than 20-feet wide (1-foot of pavement west of the centerline of Myrtle Street and 19 feet of pavement east of the centerline of Myrtle Street). (DS)
14. The development shall replace the existing 6-inch stormwater main within Myrtle Street, along the development property's frontage and to the outfall to the north with a 12-inch stormwater main. The outfall of the pipe shall have rip-rap as required by the Public Works Stormwater and Grading Design Standards. (DS)
15. The existing overhead utility line(s) serving the existing dwelling shall be underground as it does not impact or require involvement from adjacent properties. (DS)
16. The applicant shall provide a 10-foot-wide public utility easement along all property lines fronting existing or proposed right-of-way. (DS)
17. The applicant shall provide a private utility easement to ensure the western lot created by the development may extend a sewer lateral to the existing sewer main within Molalla Avenue or provide evidence that the new lot can have gravity fed sewer service to the extension of a sewer main within Myrtle Street. (DS)
18. The applicant shall provide a Private Stormwater Maintenance Covenant and Access Easement and an Operations and Maintenance Plan for the proposed pervious pavement to be recorded by the City and pay associated processing fees. (DS)
19. The applicant shall provide a Maintenance Bond in the amount of fifteen percent of the Final Cost Estimate of all public improvements constructed shown in a city approved construction plan submitted by the applicant's engineer. The estimated costs shall be supported by a verified engineering estimate approved by the City Engineer. The guarantee shall be in a form identified in Code 17.50.140.A of the Oregon City Municipal Code. The guarantee shall remain in effect for two years from the establishment of the guarantee and until accepted by the City. (DS)

20. As-built construction plans and digital copies of as-built drawings shall be filed with the city engineer within 90 days of completion of the improvements. (DS)
21. The applicant shall install a barrier to prevent vehicles from entering or exiting the parking lot through Parcel 2. The barrier shall leave enough space for pedestrian access between the two properties. The barrier shall be removed at the time of future vehicular access easement requirements triggered by future redevelopment of Parcel 2. (P)
22. Parcels 1 and 2 shall provide access easements as follows (see Exhibit 5 for supporting drawing):
- A temporary pedestrian access easement shall be provided on Parcel 2 for the benefit of Parcel 1, to allow pedestrians legal access to walk from the parking lot, through Parcel 2, to Molalla Avenue. This is the most direct route for people parking in the proposed lot to reach the building at 221 Molalla Avenue. This temporary easement will be replaced or removed at the time of future development of Parcel 2. It shall remain in place until future development, as approved by the City, occurs. A separate condition of approval is recommended to require a vehicular barrier which allows for pedestrian access between the two parcels.
  - Vehicular reciprocal access easements shall be granted between Parcels 1 and 2. The easements shall allow for two-way traffic between the two properties. A separate condition of approval is recommended to require a temporary vehicular barrier which allows for pedestrian access between the two parcels. The barrier would be removed when future development of Parcel 2 occurs. If the development on Parcel 2 provides for an alternative arrangement that provides adequate pedestrian and vehicular access, the Community Development Director may determine that the easement may be amended or voided. The easement documents shall contain language to clarify that the easements can be revised in the event of future development patterns that are not compatible with the easement locations.
  - Pedestrian and vehicular access easements for the purpose of connecting parking areas shall be granted by both Parcels 1 and 2 to the adjacent property at 212 Molalla Avenue at the time of future redevelopment of that parcel. The easement shall allow for two-way traffic between the properties. If the development on 212 Molalla provides for an alternative arrangement that provides adequate pedestrian and vehicular access, the Community Development Director may determine that such easement can be amended or is unnecessary; if so, this requirement will be voided. The 212 Molalla Avenue property is subject to this standard as well and would be required to do the same for Parcels 1 and 2 if it is redeveloped. (P)
23. The specifications of any required easements shall be reviewed and approved by the City Engineer before easement recording occurs. (P, DS)
24. The shared parking spaces are not needed for the primary uses at 220 Molalla because the building that the parking lot serves is currently vacant. If this building becomes occupied, or if the property is otherwise developed with a building, a Site Plan and Design Review process will be required to determine whether the shared parking may continue or if it is needed by the primary uses at 220 Molalla Avenue. (P)
25. Under this proposal, increasing off-street parking to 107 spaces, a total of 5 carpool parking spaces will be required. If the parking adjustment is approved, the fifth carpool space will be established in the parking lot in front of the building. The applicant shall install the correct

number of carpool spaces prior to final city approval of public improvements associated with the new parking lot. (P)

26. The applicant shall install the new covered bicycle parking space prior to final city approval of public improvements associated with the new parking lot. (P)
27. For 50 feet of frontage, two street trees are required. If adequate spacing is not available for two trees, the applicant may pay fee-in-lieu for one tree. Prior to issuance of a permit associated with the proposed development the applicant shall submit a plan for street trees in compliance with OCMC 12.08. (P)
28. If the tree in the Myrtle Street right of way is removed, the applicant shall replace the tree or pay fee-in-lieu in accordance with Chapter 12.08.035.

## **I. BACKGROUND:**

### **1. Existing Conditions**

The proposed parking lot project site is a 10,000 square foot (e.g. 0.23 acres) through-lot bound by Molalla Avenue on the east and an unimproved portion of Myrtle Street on the west. The property is currently developed with a small structure that was constructed as bungalow-style single-family residence. The year this structure was built is not known or recorded with the Tax Assessor.

The residence is positioned near the eastern edge of the lot and the front porch entrance oriented toward Molalla Avenue, where Roosevelt Street intersects the road from the east. Vehicle access is taken for the site through a driveway and curb cut along Molalla Avenue that is shared with the abutting property to the south, addressed as 212 Molalla Avenue. That neighboring property contains a small commercial building.

The zoning designation for this site is Mixed-Use Corridor District 1 (MUC-1). The Mixed-Use Corridor District (MUC) is designed to apply along sections of transportation corridors, such as Molalla Avenue. The MUC-1 designation provides for multifamily residential uses, office, and retail uses.

The abutting private properties to the north and south are assigned the same zoning designation. A multifamily development is present on the property to the north. The commercial building on the abutting property to the south currently contains the retail use Loncheria Mitzil Mexican Eatery. Properties across the street, on the east side of Molalla are also zoned MUC-1, while the properties on the other side of Myrtle Street, to the west, have an R-2 multifamily residential zoning designation.

The existing structure on the project site is still recognized as a single-family residential household use because permits to change the use to another occupancy allowed within the MUC-1 have not been issued for this structure.

The site at 221 Molalla was originally a lumberyard and was converted to a commercial building in 2006. The building contains multiple office and retail tenant spaces and is approximately 33,000 square feet.

Figure 1. Vicinity Map



Figure 2: Existing Conditions – Aerial Image



## 2. Project Description

The applicant submitted the following project description:

The project proposal requests approval of a minor partition dividing the existing 10,000 square foot lot into two, 5,000 square foot parcels. The existing structure is proposed to remain. A new 10-stall surface parking lot is proposed on the west parcel of the partition. Vehicle access to the new parking lot is proposed via a new driveway and curb cut along Myrtle Street.

The new parking lot will be constructed as an accessory use, serving the parking needs of employees located in the commercial building located across the street at 221 Molalla Avenue. The current parking supply for that 33,000 square foot building is not sufficient to serve the current parking need for tenants and visitors. Subsequently, the parking demand overflows onto the abutting residential streets in the neighborhood; especially the abutting streets of Roosevelt and Pearl.

The commercial development currently utilizes 95 parking spaces: 27 in front of the building, 52 in the existing surface parking lot at the corner of Pearl Street and Molalla Avenue, and 16 leased spaces that span across the tax lots held in common ownership addressed as 212 & 220 Molalla Avenue and 325 Pearl St.

To adequately serve the parking needs of the development, the property owner seeks to provide a total of 107 parking spaces. The ten proposed under this proposal will enable the building to come close to fully addressing this parking need. Based on the parking allowances of the Municipal Code, the building is allowed up to 101 parking spaces under the current square footage of net leasable office and retail uses identified in the building.

The 2005 land use review for this renovated building allowed a maximum of 105 parking spaces. However, since that time, much of the building area previously designated as retail along the ground floor street frontage has become office uses occupied by The Oregon Department of Human Services (DHS) and the Oregon Soil and Water Conservation District. These office uses allow fewer parking spaces per 1,000 square feet of net leasable than retail uses. The number of employees each tenant requires to support their business exceeds the number of parking spaces allowed under the Municipal Code. As a result, the project is requesting a Parking Adjustment to allow six additional parking spaces (e.g. up to 107 stalls) beyond what the Municipal Code allows under Chapter 17.52.020.A (e.g. 101 stalls). The new 10-space parking lot proposed under this application will bring the parking supply to 105 stalls. Because the size of the west lot cannot accommodate more than 10-stalls on the 5,000 square foot parcel, the commercial office building will continue to explore future opportunities to provide the two additional parking spaces needed by the development in other locations through this Parking Adjustment.

Figure 3: Proposed Site Plan

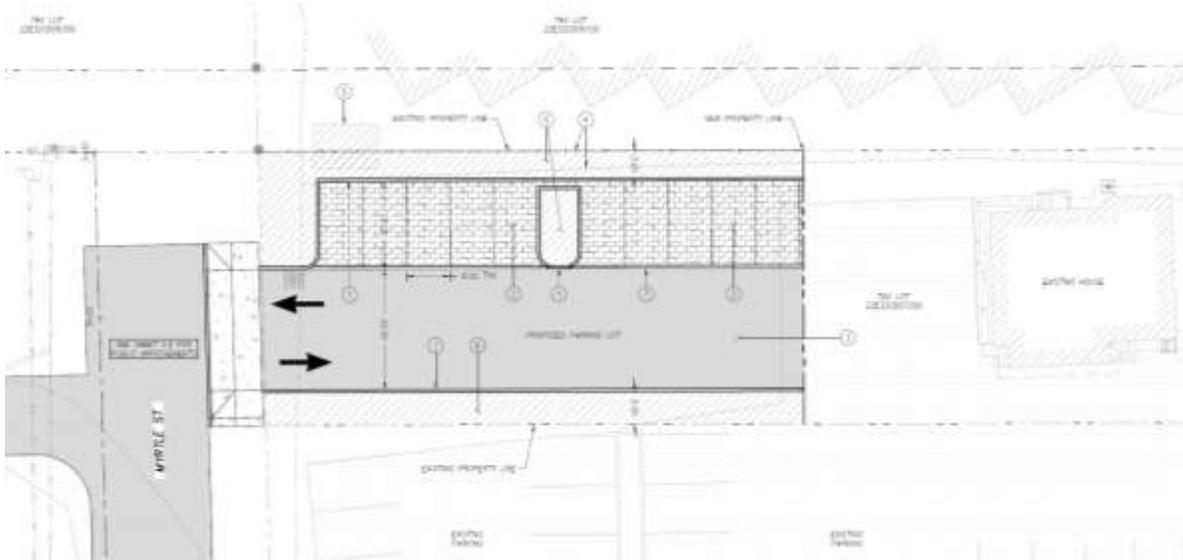
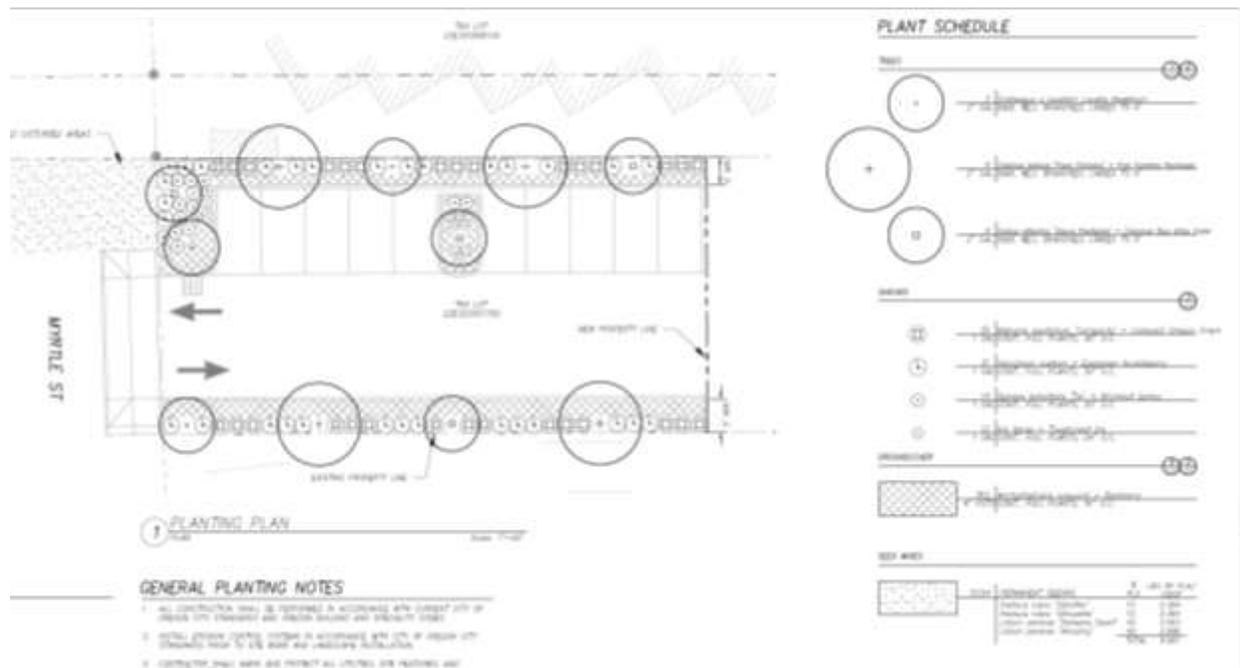


Figure 4. Proposed Landscaping Plan



**3. Municipal Code Standards and Requirements:** The following sections of the Oregon City Municipal Code are applicable to this land use approval:

- 12.04 - Streets, Sidewalks, and Public Places
- 12.08 - Public and Street Trees
- 13.12 - Stormwater Management
- 15.48 - Grading, Filling and Excavating
- 16.16 – Minor Partitions Process and Standards
- 16.12 - Minimum Improvements and Design Standards for Land Divisions
- 17.29 – Mixed Use Corridor
- 17.41 – Tree Protection

- 17.47 - Erosion and Sediment Control
- 17.50 - Administration and Procedures
- 17.52 – Off-street Parking and Loading
- 17.62 – Site Plan and Design Review
- 17.54.100 – Fences

The City Code Book is available on-line at [www.orcity.org](http://www.orcity.org).

**4. Permits and Approvals:** The applicant is responsible for obtaining approval and permits from each applicable governmental agency and department at Oregon City including but not limited to the Engineering and Building Divisions.

**5. Notice and Public Comment**

Notice of the proposal was sent to various City departments, affected agencies, property owners within 300 feet, and the Neighborhood Association. Additionally, the subject property was posted with signs identifying that a land use action was occurring on the property. Public comments submitted include (Exhibit 3):

A comment from the neighboring property owner of 212 Molalla, 220 Molalla, and 635 Pearl St, who states that parking lot users will likely cross through her properties to access the new parking lots. She requests a barrier along the entire adjoining property line. The staff report includes a condition of approval for a barrier on the east edge of the parking lot to prevent vehicles from accessing the lot from Molalla Avenue or Pearl Street.

Comments of the Public Works Department and Development Services Division are incorporated into this report and Conditions of Approval.

None of the comments provided indicate that an approval criterion has not been met or cannot be met through the Conditions of Approval attached to this Staff Report.

**II. ANALYSIS AND FINDINGS:**

**CHAPTER 17.29 “MUC” MIXED USE CORRIDOR DISTRICT**

*17.29.020 - Permitted uses—MUC-1 and MUC-2.*

- A. Banquet, conference facilities and meeting rooms;*
- B. Bed and breakfast and other lodging facilities for up to ten guests per night;*
- C. Child care centers and/or nursery schools;*
- D. Indoor entertainment centers and arcades;*
- E. Health and fitness clubs;*
- F. Medical and dental clinics, outpatient; infirmity services;*
- G. Museums, libraries and cultural facilities;*
- H. Offices, including finance, insurance, real estate and government;*
- I. Outdoor markets, such as produce stands, craft markets and farmers markets that are operated on the weekends and after six p.m. during the weekday;*
- J. Postal services;*
- K. Parks, playgrounds, play fields and community or neighborhood centers;*
- L. Repair shops, for radio and television, office equipment, bicycles, electronic equipment, shoes and small appliances and equipment;*
- N. Residential units, multi-family;*
- O. Restaurants, eating and drinking establishments without a drive through;*

- P. Services, including personal, professional, educational and financial services; laundry and dry-cleaning;
- Q. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores, and similar, provided the maximum footprint for a stand alone building with a single store or multiple buildings with the same business does not exceed sixty thousand square feet;
- R. Seasonal sales, subject to OCMC [Section 17.54.060](#);
- S. Assisted living facilities; nursing homes and group homes for over fifteen patients;
- T. Studios and galleries, including dance, art, photography, music and other arts;
- U. Utilities: Basic and linear facilities, such as water, sewer, power, telephone, cable, electrical and natural gas lines, not including major facilities such as sewage and water treatment plants, pump stations, water tanks, telephone exchanges and cell towers;
- V. Veterinary clinics or pet hospitals, pet day care;
- W Home occupations;
- X. Research and development activities;
- Y. Temporary real estate offices in model dwellings located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- Z. Residential care facility;
- AA Transportation facilities;
- BB. Live/work units, pursuant to [Section 17.54.105](#)—Live/work units.

**Finding: Complies as Proposed.** The applicant has proposed a parking lot associated with an existing mixed use commercial building, which is a permitted use in the zone.

*17.29.030 - Conditional uses—MUC-1 and MUC-2 zones.*

*The following uses are permitted in this district when authorized and in accordance with the process and standards contained in [Chapter 17.56](#):*

- A. Ancillary drive-in or drive-through facilities;
- B. Emergency service facilities (police and fire), excluding correctional facilities;
- C. Gas stations;
- D. Outdoor markets that do not meet the criteria of [Section 17.29.020H](#);
- E. Public utilities and services including sub-stations (such as buildings, plants and other structures);
- F. Public and/or private educational or training facilities;
- G. Religious institutions;
- H. Retail trade, including gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores and any other use permitted in the neighborhood, historic or limited commercial districts that have a footprint for a stand alone building with a single store in excess of sixty thousand square feet in the MUC-1 or MUC-2 zone;
- I. Hotels and motels, commercial lodging;
- J. Hospitals;
- K. Parking structures and lots not in conjunction with a primary use;
- L. Passenger terminals (water, auto, bus, train).

**Finding: Not Applicable.** The applicant has not proposed a conditional use. The parking lot is in conjunction with a primary use that is located on a separate parcel.

*17.29.040 - Prohibited uses in the MUC-1 and MUC-2 zones.*

*The following uses are prohibited in the MUC district:*

- A. Distributing, wholesaling and warehousing;
- B. Outdoor storage;
- C. Outdoor sales that are not ancillary to a permitted use on the same or abutting property under the same ownership;
- D. Correctional facilities;
- E. Heavy equipment service, repair, sales, storage or rentals (including but not limited to construction equipment and machinery and farming equipment);
- F. Kennels;
- G. Motor vehicle and recreational vehicle sales and incidental service;
- H. Motor vehicle and recreational vehicle repair/service;
- I. Self-service storage facilities.

**Finding: Complies as Proposed.** The applicant has not proposed a prohibited use.

*17.29.050 - Dimensional standards—MUC-1.*

*A. Minimum lot areas: None.*

*B. Maximum building height: Forty feet or three stories, whichever is less.*

*C. Minimum required setbacks if not abutting a residential zone: None.*

*D. Minimum required interior and rear yard setbacks if abutting a residential zone: Twenty feet, plus one foot additional yard setback for every one foot of building height over thirty-five feet.*

*E. Maximum allowed setbacks.*

*1. Front yard: Five feet (may be extended with Site Plan and Design Review (Section 17.62.055)).*

*2. Interior side yard: None.*

*3. Corner side setback abutting street: Thirty feet provided the Site Plan and Design Review requirements of Section 17.62.055 are met.*

*4. Rear yard: None.*

**Finding: Not applicable.** No buildings are proposed. An existing shed built over the property line is proposed to be removed.

*F. Maximum lot coverage of the building and parking lot: Eighty percent.*

**Finding: Complies as Proposed.** Based on the applicant's plans, the new parking lot parcel of 4,698 square feet is proposed to contain a parking lot of 3,401, which is 72% coverage.

The other 5,030 parcel with the existing single family home has 3,350 square feet of parking and building lot coverage, which is 67% lot coverage.

*G. Minimum required landscaping (including landscaping within a parking lot): Twenty percent.*

**Finding: Complies as Proposed.** Based on the applicant's plans, the new parking lot parcel of 4,698 square feet is proposed to contain a 1,297 of landscaping which is 28% coverage.

The other 5,030 parcel with the existing single family home has 1,650 square feet of existing landscaped area, which is 33%.

*17.29.060 - Dimensional standards—MUC-2.*

**Finding: Not Applicable.** The subject site is located within the "MUC-1" District, therefore, the "MUC-2" dimensional standards are not applicable.

*17.29.070 - Floor area ratio (FAR).*

*Floor area ratios are a tool for regulating the intensity of development. Minimum FARs help to achieve more intensive forms of building development in areas appropriate for larger-scale buildings and higher residential densities.*

*A Standards.*

*1. The minimum floor area ratios contained in 17.29.050 and 17.29.060 apply to all non-residential and mixed-use building development, except stand-alone commercial buildings less than ten thousand square feet in floor area.*

*2. Required minimum FARs shall be calculated on a project-by-project basis and may include multiple contiguous blocks. In mixed-use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.*

*3. An individual phase of a project shall be permitted to develop below the required minimum floor area ratio provided the applicant demonstrates, through covenants applied to the remainder of the site or project or through other binding legal mechanism, that the required density for the project will be achieved at project build out.*

**Finding: Not Applicable.** No buildings are proposed.

## **CHAPTER 17.62 SITE PLAN AND DESIGN REVIEW**

**17.62.015** *Modifications that will better meet design review requirements.*

*The review body may consider modification of site-related development standards. These modifications are done as part of design review and are not required to go through the Variance process pursuant to section 17.60.020. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the Variance process pursuant to section 17.60.020. Modifications that are denied through design review may be requested as Variance through the Variance process pursuant to section 17.60.020. The review body may approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:*

**17.62.015.A.** *The modification will result in a development that better meets design guidelines; and*

**17.62.015.B.** *The modification meets the intent of the standard. On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.*

**Finding: Complies as Proposed.** The applicant has requested a modification to OCMC 17.52.040 Parking lot landscaping. The applicant requests that the requirement for the 5-foot perimeter landscaping be waived along the shared rear property line. The request is made in order to retain 10 parking stalls and maintain a safe turning radius for the stall closest to the driveway entrance. Installing the perimeter landscaping in this location would cause the project to lose a parking space in the design or reduce the turning radius for the front parking space below code standards.

To meet the intent of the standard, which is to shade parking lots and soften the edge of parking lots by providing a landscape buffer, the project proposes enhanced landscaping around the other perimeter areas of the parking lot. The two trees that would be located within the perimeter landscaping for the rear property line have been relocated to the north and south perimeter landscaped areas. These trees are provided in addition to the minimum perimeter tree requirements for these areas. The shrubs specified along the other perimeter landscaping areas are evergreen and reach a mature height of 3 to 5 feet, exceeding the minimum height of thirty inches for parking lot shrub standards. The perimeter landscaping along the south property line is also 6 feet wide, above the 5 foot minimum width, which provides additional landscaped area to make up for the loss of landscaped area on the rear property line.

Concentrating more robust landscaping along the longer, 100- foot-long side property lines, in lieu of the rear property line, still enables the project to enhance and soften the appearance of the parking lot and provide an equivalent level of pollution reduction and shading of parking areas. The alternative proposal also limits the visual impact of the vehicle area on adjacent properties and right-of-ways along the other three property lines.

In addition, the elimination of the perimeter landscape area on this shared property line will allow for future vehicular and pedestrian movement between the two properties, if desired.

*17.62.020 - Preapplication conference.*

*Prior to filing for site plan and design review approval, the applicant shall confer with the community development director pursuant to [Section 17.50.030](#). The community development director shall identify and explain the relevant review procedures and standards.*

**Finding:** Please refer to the findings in Section 17.50.050 of this report.

*17.62.030 - When required.*

*Site plan and design review shall be required for all development of real property in all zones except the R-10, R-8, R-6, R-5 and R-3.5 zoning districts, unless otherwise provided for by this title or as a condition of approval of a permit. Site plan and design review shall also apply to all conditional uses, cottage housing development, multi-family and non-residential uses in all zones. No building permit or other permit authorization for development shall be issued prior to site plan and design review approval. Parking lots and parking areas accessory to uses regulated by this chapter also shall require site plan and design review approval. Site plan and design review shall not alter the type and category of uses permitted in zoning districts.*

**Finding: Applicable.** The applicant has proposed development in the “MUC-1” Mixed Use Corridor District, therefore, Chapter 17.62 is applicable.

*17.62.035 - Minor site plan and design review.*

**Finding: Complies as Proposed.** The proposed development does not qualify for a Minor Site and Design Review application.

*17.62.040 - Plans required.*

**Finding: Complies as Proposed.** The applicant has submitted all requested application items.

*17.62.050 - Standards.*

*A. All development shall comply with the following standards:*

*1. Landscaping, A minimum of fifteen percent of the lot shall be landscaped. Existing native vegetation shall be retained to the maximum extent practicable. All plants listed on the Oregon City Nuisance Plant List shall be removed from the site prior to issuance of a final occupancy permit for the building.*

**Finding: Complies as Proposed.** The west parcel contains landscaped area but is not planted to the standards of this section. It is existing conforming/nonconforming and proposes no changes. The east parcel is approximately 4,968 SF in size. As reflected on the landscape plan provided on Sheet L1.0, this parcel’s parking lot improvements contain approximately 1,297 SF plantings, covering approximately 36% of the east lot.

Existing vegetation on the site is sparse. With overgrown shrubs and vines along the north and west perimeter property lines. No trees exist in the area where the parking lot is proposed. Compliance with noting the requirement to remove any nuisance plants prior to issuance of a final occupancy permit will be reviewed during the time of permit review.

*a. Except as allowed elsewhere in the zoning and land division chapters of this Code, all areas to be credited towards landscaping must be installed with growing plant materials. A reduction of up to twenty-five percent of the overall required landscaping may be approved by the community development director if the same or greater amount of pervious material is incorporated in the non-parking lot portion of the site plan (pervious material within parking lots are regulated in OCMC 17.52.070).*

**Finding: Complies as Proposed.** All areas credited towards the 15% site landscaping are proposed to be installed with growing plant material. No reduction is requested.

*b. Pursuant to Chapter 17.49, landscaping requirements within the Natural Resource Overlay District, other than landscaping required for parking lots, may be met by preserving, restoring and permanently protecting native vegetation and habitat on development sites.*

**Finding: Not Applicable.** The subject site is not located within the Natural Resource Overlay District.

*c. The landscaping plan shall be prepared by a registered landscape architect and include a mix of vertical (trees and shrubs) and horizontal elements (grass, groundcover, etc.) that within three years will cover one hundred percent of the Landscape area. No mulch, bark chips, or similar materials shall be allowed at the time of landscape installation except under the canopy of shrubs and within two feet of the base of trees. The community development department shall maintain a list of trees, shrubs and vegetation acceptable for landscaping.*

**Finding: Complies as Proposed.** The landscape plan was prepared by Jeffrey Creel, Registered Landscape Architect. The plan includes a mix of vertical and horizontal elements and it identifies that the proposed plantings will cover 100% of the landscape area within 3 years nor that no mulch, bark chips, or similar materials will be allowed at the time of landscape installation except under the canopy of shrubs and within two feet of the base of trees.

*d. For properties within the Downtown Design District, or for major remodeling in all zones subject to this chapter, landscaping shall be required to the extent practicable up to the ten percent requirement.*

**Finding: Not Applicable.** The subject site is not located within the Downtown Design District.

*e. Landscaping shall be visible from public thoroughfares to the extent practicable.*

**Finding: Complies as Proposed.** The applicant has proposed landscaping that is visible from public thoroughfares to the extent practicable.

*f. Interior parking lot landscaping shall not be counted toward the fifteen percent minimum, unless otherwise permitted by the dimensional standards of the underlying zone district.*

**Finding: Complies as Proposed.** Per 17.29.050 of the MUC-1 base zone dimensional standards, the minimum required landscaping for a site includes landscaping material with a parking lot. Under this base zone landscaping requirement, a minimum of 20% of the site area must contain landscaping, rather than the lesser requirement of 15% under the site and design review standards of 17.62.050. The landscaping plan submitted with this application demonstrates compliance with this standard on Sheet L1.0, showing a landscaping calculation equivalent to 36 percent of the parcel area.

*2. Vehicular Access and Connectivity.*

*a. Parking areas shall be located behind buildings, below buildings, or on one or both sides of buildings.*

**Finding: Not applicable.** A building is not proposed on the site where the new surface parking lot is proposed. As a result, proximity standards of parking in relation to a building area not applicable.

*b. Ingress and egress locations on thoroughfares shall be located in the interest of public safety. Access for emergency services (fire and police) shall be provided.*

**Finding: Complies with Condition.** No change is proposed for the ingress or egress of development along the Molalla Avenue street frontage. This access serves the existing structure that is still recognized as a single-family dwelling, but can change occupancy to other uses allowed by right in the MUC-1 zone. Under this proposal, street frontage improvements are proposed to extend access for vehicles along Myrtle Street. The applicant submitted a Traffic Analysis Letter (TAL), which indicated that ingress and egress would be provided on Myrtle Street. The proposed design, with no landscaping on the boundary of the new lot line between proposed Parcel 1 and Parcel 1, appears to allow for vehicular access from Molalla Avenue. The applicant shall install a barrier to prevent vehicles from entering or exiting the parking lot through Parcel 2. The barrier shall leave enough space for pedestrian access between the two properties, as required in the recommended conditions of approval. The barrier shall be removed at the time of future vehicular access easement requirements triggered by future redevelopment of Parcel 2. The TAL was reviewed by the City's traffic consultant John Replinger, who found no safety impacts (Exhibit 4). **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*c. Alleys or vehicular access easements shall be provided in the following Districts: R-2, MUC-1, MUC-2, MUD and NC zones unless other permanent provisions for access to off-street parking and loading facilities are approved by the decision-maker. The corners of alley intersections shall have a radius of not less than ten feet.*

**Finding: Complies as Proposed.** The subject site abuts an existing street, and the applicant has proposed vehicular access to the site via the existing street.

*d. Sites abutting an alley shall be required to gain vehicular access from the alley unless deemed impracticable by the community development director.*

**Finding: Not applicable.** The development property is not adjacent to an existing alley.

*e. Where no alley access is available, the development shall be configured to allow only one driveway per frontage. On corner lots, the driveway(s) shall be located off of the side street (unless the side street is an arterial) and away from the street intersection. Shared driveways shall be required as needed to accomplish the requirements of this section. The location and design of pedestrian access from the sidewalk shall be emphasized so as to be clearly*

*visible and distinguishable from the vehicular access to the site. Special landscaping, paving, lighting, and architectural treatments may be required to accomplish this requirement.*

**Finding: Not Applicable.** The applicant has proposed to gain access via the existing street and proposes one driveway.

*f. Driveways that are at least twenty-four feet wide shall align with existing or planned streets on adjacent sites.*

**Finding: Not Applicable.** The driveway is only 22 feet wide.

*g. Development shall be required to provide existing or future connections to adjacent sites through the use of vehicular and pedestrian access easements where applicable. Such easements shall be required in addition to applicable street dedications as required in [Chapter 12.04](#).*

**Finding: Complies with Conditions.** The applicant is proposing to divide 202 Molalla Avenue into Parcel 2, with the existing home, and Parcel 1, with the proposed parking lot. The purpose of this requirement is to limit driveways and curb cuts and to allow for connections between adjoining parking lots so that drivers can travel between parking lots without having to use the right-of-way. Parcels 1 and 2 shall provide access easements as follows (see Exhibit 5 for supporting diagram):

- A temporary pedestrian access easement shall be provided on Parcel 2 for the benefit of Parcel 1, to allow pedestrians legal access to walk from the parking lot, through Parcel 2, to Molalla Avenue. This is the most direct route for people parking in the proposed lot to reach the building at 221 Molalla Avenue. This temporary easement will be replaced or removed at the time of future development of Parcel 2. It shall remain in place until future development, as approved by the City, occurs. A separate condition of approval is recommended to require a vehicular barrier which allows for pedestrian access between the two parcels.
- Vehicular reciprocal access easements shall be granted between Parcels 1 and 2. The easements shall allow for two-way traffic between the two properties. A separate condition of approval is recommended to require a temporary vehicular barrier which allows for pedestrian access between the two parcels. The barrier would be removed when future development of Parcel 2 occurs. If the development on Parcel 2 provides for an alternative arrangement that provides adequate pedestrian and vehicular access, the Community Development Director may determine that the easement may be amended or voided. The easement documents shall contain language to clarify that the easements can be revised in the event of future development patterns that are not compatible with the easement locations.
- Pedestrian and vehicular access easements for the purpose of connecting parking areas shall be granted by both Parcels 1 and 2 to the adjacent property at 212 Molalla Avenue at the time of future redevelopment of that parcel. The easement shall allow for two-way traffic between the properties. If the development on 212 Molalla provides for an alternative arrangement that provides adequate pedestrian and vehicular access, the Community Development Director may determine that such easement can be amended or is unnecessary; if so, this requirement will be voided. The 212 Molalla Avenue property is subject to this standard as well and would be required to do the same for Parcels 1 and 2 if it is redeveloped.

**Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*h. Vehicle and pedestrian access easements may serve in lieu of streets when approved by the decision maker only where dedication of a street is deemed impracticable by the city.*

**Finding: Not Applicable.** No streets or easements to replace streets are required.

*i. Vehicular and pedestrian easements shall allow for public access and shall comply with all applicable pedestrian access requirements.*

**Finding: Complies with Condition.** See findings in 17.62.050.A.2.g. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*j. In the case of dead-end stub streets that will connect to streets on adjacent sites in the future, notification that the street is planned for future extension shall be posted on the stub street until the street is extended and shall inform the public that the dead-end street may be extended in the future.*

**Finding: Not Applicable.** Dead-end stub streets that will connect to streets on adjacent sites are not proposed or required for this development.

*k. Parcels larger than three acres shall provide streets as required in [Chapter 12.04](#). The streets shall connect with existing or planned streets adjacent to the site.*

**Finding: Not Applicable.** The subject site is not larger than three acres.

*l. Parking garage entries shall not dominate the streetscape. They shall be designed and situated to be ancillary to the use and architecture of the ground floor. This standard applies to both public garages and any individual private garages, whether they front on a street or private interior access road.*

**Finding: Not Applicable.** A parking garage has not been proposed as part of this development.

*m. Buildings containing above-grade structured parking shall screen such parking areas with landscaping or landscaped berms, or incorporate contextual architectural elements that complement adjacent buildings or buildings in the area. Upper level parking garages shall use articulation or fenestration treatments that break up the massing of the garage and/or add visual interest.*

**Finding: Not Applicable.** A parking garage has not been proposed as part of this development.

*3. Building structures shall be complimentary to the surrounding area. All exterior surfaces shall present a finished appearance. All sides of the building shall include materials and design characteristics consistent with those on the front. Use of inferior or lesser quality materials for side or rear facades or decking shall be prohibited.*

*a. Alterations, additions and new construction located within the McLoughlin Conservation District, Canemah National Register District, and the Downtown Design District and when abutting a designated Historic Landmark shall utilize materials and a design that incorporates the architecture of the subject building as well as the surrounding district or abutting Historic Landmark. Historic materials such as doors, windows and siding shall be retained or replaced with in kind materials unless the community development director determines that the materials cannot be retained and the new design and materials are compatible with the subject building, and District or Landmark. The community development director may utilize the Historic Review Board's Guidelines for New Construction (2006) to develop findings to show compliance with this section.*

*b. In historic areas and where development could have a significant visual impact, the review authority may request the advisory opinions of appropriate experts designated by the community development director from the design fields of architecture, landscaping and urban planning. The applicant shall pay the costs associated with obtaining such independent professional advice; provided, however, that the review authority shall seek to minimize those costs to the extent practicable.*

**Finding: Not Applicable.** No buildings are proposed.

*4. Grading shall be in accordance with the requirements of [Chapter 15.48](#) and the public works stormwater and grading design standards.*

**Finding:** Please refer to the findings in Chapter 15.48 of this report.

*5. Development subject to the requirements of the Geologic Hazard overlay district shall comply with the requirements of that district.*

**Finding: Complies as proposed.** A small portion of the subject property is within the Geologic Hazard overlay district (only a small portion of the northwest corner of the lot is in the buffer area for steep slopes). Therefore, the City Engineer has waived the requirement for geologic hazard review. This waiver shall not imply any liability on the part of the city for any subsequent damage caused by the development. This waiver is not applicable for excavation of existing embankment slopes. This waiver does apply to other applicable development standards contained in Municipal Codes. This waiver is not a permit for development; all applicable Land Use, Building and Public Works permits must be obtained prior to development. This waiver does not run with the land is not transferable to subsequent property owners or developers. This waiver may be voided by the City Engineer at any time if the size or type of grading requirements of a proposed development warrants a Geological Assessment or a Geotechnical Report. This waiver may be challenged on appeal and may be denied by a subsequent review authority.

*6. Drainage shall be provided in accordance with city's drainage master plan, [Chapter 13.12](#), and the public works stormwater and grading design standards.*

**Finding:** Please refer to the findings in Chapter 13.12 of this report.

*7. Parking, including carpool, vanpool and bicycle parking, shall comply with city off-street parking standards, [Chapter 17.52](#).*

**Finding:** Please refer to the findings in Chapter 17.52 of this report.

*8. Sidewalks and curbs shall be provided in accordance with the city's transportation master plan and street design standards. Upon application, the community development director may waive this requirement in whole or in part in those locations where there is no probable need, or comparable alternative location provisions for pedestrians are made.*

**Finding:** Please refer to the findings in Chapter 12.04 of this report.

*9. A well-marked, continuous and protected on-site pedestrian circulation system meeting the following standards shall be provided:*

*a. Pathways between all building entrances and the street are required. Pathways between the street and buildings fronting on the street shall be direct. Exceptions may be allowed by the director where steep slopes or protected natural resources prevent a direct connection or where an indirect route would enhance the design and/or use of a common open space.*

**Finding: Not Applicable.** No buildings are proposed.

*b. The pedestrian circulation system shall connect all main entrances on the site. For buildings fronting on the street, the sidewalk may be used to meet this standard. Pedestrian connections to other areas of the site, such as parking areas, recreational areas, common outdoor areas, and any pedestrian amenities shall be required.*

**Finding: Complies as Proposed.** The new parking lot is proposed to serve the building at 221 Molalla, which is across the street and not on the same site. For the most part, the sidewalks in the right of way can serve as a pedestrian connection to the commercial building.

*c. Elevated external stairways or walkways, that provide pedestrian access to multiple dwelling units located above the ground floor of any building are prohibited. The community development director may allow exceptions for external stairways or walkways located in, or facing interior courtyard areas provided they do not compromise visual access from dwelling units into the courtyard.*

**Finding: Not Applicable.** No buildings are proposed.

*d. The pedestrian circulation system shall connect the main entrances of adjacent buildings on the same site.*

**Finding: Not Applicable.** No buildings are proposed.

e. The pedestrian circulation system shall connect the principal building entrance to those of buildings on adjacent commercial and residential sites where practicable. Walkway linkages to adjacent developments shall not be required within industrial developments or to vacant industrially-zoned land.

**Finding: Not Applicable.** No buildings are proposed.

f. On-site pedestrian walkways shall be hard surfaced, well drained and at least five feet wide. Surface material shall contrast visually to adjoining surfaces. When bordering parking spaces other than spaces for parallel parking, pedestrian walkways shall be a minimum of seven feet in width unless curb stops are provided. When the pedestrian circulation system is parallel and adjacent to an auto travel lane, the walkway shall be raised or separated from the auto travel lane by a raised curb, bollards, landscaping or other physical barrier. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps for each direction of travel. Pedestrian walkways that cross drive isles or other vehicular circulation areas shall utilize a change in textual material or height to alert the driver of the pedestrian crossing area.

**Finding: Not Applicable.** No pedestrian walkways are proposed or required.

10. There shall be provided adequate means to ensure continued maintenance and necessary normal replacement of private common facilities and areas, drainage ditches, streets and other ways, structures, recreational facilities, landscaping, fill and excavation areas, screening and fencing, groundcover, garbage storage areas and other facilities not subject to periodic maintenance by the city or other public agency.

**Finding: Complies as Proposed.** The applicant's narrative identified that the building owner will provide maintenance and necessary normal repair and replacement.

11. Site planning shall conform to the requirements of OCMC [Chapter 17.41 Tree Protection](#).

**Finding:** Please refer to the findings in Chapter 17.41 of this report.

12. Development shall be planned, designed, constructed and maintained to protect water resources and habitat conservation areas in accordance with the requirements of the city's Natural Resources Overlay District, Chapter 17.49, as applicable.

**Finding: Not Applicable.** The subject site is not located within the Natural Resource Overlay District, therefore, OCMC Chapter 17.49 is not applicable.

13. All development shall maintain continuous compliance with applicable federal, state, and city standards pertaining to air and water quality, odor, heat, glare, noise and vibrations, outdoor storage, radioactive materials, toxic or noxious matter, and electromagnetic interference. Prior to issuance of a building permit, the community development director or building official may require submission of evidence demonstrating compliance with such standards and receipt of necessary permits. The review authority may regulate the hours of construction or operation to minimize adverse impacts on adjoining residences, businesses or neighborhoods. The emission of odorous gases or other matter in such quantity as to be readily detectable at any point beyond the property line of the use creating the odors or matter is prohibited.

**Finding: Complies as Proposed.** The applicant's narrative identified that the development proposal will comply with all applicable federal, state and city standards.

14. Adequate public water and sanitary sewer facilities sufficient to serve the proposed or permitted level of development shall be provided. The applicant shall demonstrate that adequate facilities and services are presently available or can be made available concurrent with development. Service providers shall be presumed correct in the evidence, which they submit. All facilities shall be designated to city standards as set out in the city's facility master plans and public works design standards. A development may be required to modify or replace existing offsite systems if necessary to provide adequate public facilities. The city may require over sizing of facilities where necessary to meet standards in the city's facility master plan or to allow for the orderly and efficient provision of public facilities and services. Where over sizing is required, the developer may request reimbursement from the city for over sizing based on the city's reimbursement policy and fund availability, or provide for recovery of costs from intervening properties as they develop.

**Finding: Complies as conditioned. See findings from section 16.12.095 of this report.**

*15. Adequate right-of-way and improvements to streets, pedestrian ways, bike routes and bikeways, and transit facilities shall be provided and be consistent with the city's transportation master plan and design standards and this title. Consideration shall be given to the need for street widening and other improvements in the area of the proposed development impacted by traffic generated by the proposed development. This shall include, but not be limited to, improvements to the right-of-way, such as installation of lighting, signalization, turn lanes, median and parking strips, traffic islands, paving, curbs and gutters, sidewalks, bikeways, street drainage facilities and other facilities needed because of anticipated vehicular and pedestrian traffic generation. Compliance with [Chapter] [12.04](#), Streets, Sidewalks and Public Places shall be sufficient to achieve right-of-way and improvement adequacy.*

**Finding: Complies as conditioned.** See findings from section 12.04 of this report.

*16. If a transit agency, upon review of an application for an industrial, institutional, retail or office development, recommends that a bus stop, bus turnout lane, bus shelter, accessible bus landing pad, lighting, or transit stop connection be constructed, or that an easement or dedication be provided for one of these uses, consistent with an agency adopted or approved plan at the time of development, the review authority shall require such improvement, using designs supportive of transit use. Improvements at a major transit stop may include intersection or mid-block traffic management improvements to allow for crossings at major transit stops, as identified in the transportation system plan.*

**Finding: Complies as Proposed.** The subject site is located on a transit route. The development application was transmitted to Tri-Met and no comments were received in response to the applicant's proposal.

*17. All utility lines shall be placed underground.*

**Finding: Complies as Proposed.** The applicant does not propose any new utility lines to be placed above ground.

*18. Access and facilities for physically handicapped people shall be incorporated into the site and building design consistent with applicable federal and state requirements, with particular attention to providing continuous, uninterrupted access routes.*

**Finding: Complies as Proposed.** The applicant indicated that the proposal is compliant with applicable ADA requirements. Compliance with ADA and accessibility standards will be reviewed upon submittal of a building permit application.

*19. For a residential development, site layout shall achieve at least eighty percent of the maximum density of the base zone for the net developable area. Net developable area excludes all areas for required right-of-way dedication, land protected from development through Natural Resource or Geologic Hazards protection, and required open space or park dedication.*

**Finding: Not Applicable.** No residential uses are proposed.

*20. Screening of Mechanical Equipment:*

*a. Rooftop mechanical equipment, including HVAC equipment and utility equipment that serves the structure, shall be screened. Screening shall be accomplished through the use of parapet walls or a sight-obscuring enclosure around the equipment constructed of one of the primary materials used on the primary facades of the structure, and that is an integral part of the building's architectural design. The parapet or screen shall completely surround the rooftop mechanical equipment to an elevation equal to or greater than the highest portion of the rooftop mechanical equipment being screened. In the event such parapet wall does not fully screen all rooftop equipment, then the rooftop equipment shall be enclosed by a screen constructed of one of the primary materials used on the primary facade of the building so as to achieve complete screening.*

*b. Wall-mounted mechanical equipment shall not be placed on the front facade of a building or on a facade that faces a right-of-way. Wall-mounted mechanical equipment, including air conditioning or HVAC equipment and groups of multiple utility meters, that extends six inches or more from the outer building wall shall be screened*

from view from streets; from residential, public, and institutional properties; and from public areas of the site or adjacent sites through the use of (a) sight-obscuring enclosures constructed of one of the primary materials used on the primary facade of the structure, (b) sight-obscuring fences, or (c) trees or shrubs that block at least eighty percent of the equipment from view or (d) painting the units to match the building. Wall-mounted mechanical equipment that extends six inches or less from the outer building wall shall be designed to blend in with the color and architectural design of the subject building.

c. Ground-mounted above-grade mechanical equipment shall be screened by ornamental fences, screening enclosures, trees, or shrubs that block at least eighty percent of the view. Placement and type of screening shall be determined by the community development director.

d. All mechanical equipment shall comply with the standards in this section. If mechanical equipment is installed outside of the site plan and design review process, planning staff shall review the plans to determine if additional screening is required. If the proposed screening meets this section, no additional planning review is required.

e. This section shall not apply to the installation of solar energy panels, photovoltaic equipment or wind power generating equipment.

**Finding: Not Applicable.** The applicant's narrative identified that no outdoor mechanical equipment is proposed as part of this development.

#### 21. Building Materials.

a. Preferred building materials. Building exteriors shall be constructed from high quality, durable materials. Preferred exterior building materials that reflect the city's desired traditional character are as follows:

i. Brick.

ii. Basalt stone or basalt veneer.

iii. Narrow horizontal wood or composite siding (generally five inches wide or less); wider siding will be considered where there is a historic precedent.

iv. Board and baton siding.

v. Other materials subject to approval by the community development director.

vi. Plywood with battens or fiber/composite panels with concealed fasteners and contiguous aluminum sections at each joint that are either horizontally or vertically aligned.

vii. Stucco shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.

**Finding: Not Applicable.** No buildings are proposed.

b. Prohibited materials. The following materials shall be prohibited in visible locations unless an exception is granted by the community development director based on the integration of the material into the overall design of the structure.

i. Vinyl or plywood siding (including T-111 or similar plywood).

ii. Glass block or highly tinted, reflected, translucent or mirrored glass (except stained glass) as more than ten percent of the building facade.

iii. Corrugated fiberglass.

iv. Chain link fencing (except for temporary purposes such as a construction site or as a gate for a refuse enclosure).

[v.] Crushed colored rock/crushed tumbled glass.

[vi.] Non-corrugated and highly reflective sheet metal.

**Finding: Complies as Proposed.** No prohibited materials have been identified within the applicant's submittal. An existing chain link fence along the property line is proposed to be removed and replaced with a wood fence.

c. Special material standards: The following materials are allowed if they comply with the requirements found below:

1. Concrete block. When used for the front facade of any building, concrete blocks shall be split, rock- or ground-faced and shall not be the prominent material of the elevation. Plain concrete block or plain concrete may be used as foundation material if the foundation material is not revealed more than three feet above the finished grade level adjacent to the foundation wall.

2. Metal siding. Metal siding shall have visible corner moldings and trim and incorporate masonry or other similar durable/permanent material near the ground level (first two feet above ground level).

3. *Exterior Insulation and Finish System (EIFS) and similar toweled finishes shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.*
4. *Building surfaces shall be maintained in a clean condition and painted surfaces shall be maintained to prevent or repair peeling, blistered or cracking paint.*

**Finding: Not Applicable.** No special materials have been identified within the applicant's submittal.

*22. Conditions of Approval. The review authority may impose such conditions as it deems necessary to ensure compliance with these standards and other applicable review criteria, including standards set out in city overlay districts, the city's master plans, and city public works design standards. Such conditions shall apply as described in Sections 17.50.310, 17.50.320 and 17.50.330. The review authority may require a property owner to sign a waiver of remonstrance against the formation of and participation in a local improvement district where it deems such a waiver necessary to provide needed improvements reasonably related to the impacts created by the proposed development. To ensure compliance with this chapter, the review authority may require an applicant to sign or accept a legal and enforceable covenant, contract, dedication, easement, performance guarantee, or other document, which shall be approved in form by the city attorney.*

**Finding: Complies with Condition.** The property owner shall sign a Restrictive Covenant Non-Remonstrance Agreement for the formation of and participation in a local improvement district. The applicant shall pay all fees associated with processing and recording the Non-Remonstrance Agreement. The applicant shall provide a Maintenance Bond in the amount of fifteen percent of the Final Cost Estimate of all public improvements constructed shown in a city approved construction plan submitted by the applicant's engineer. The estimated costs shall be supported by a verified engineering estimate approved by the City Engineer. The guarantee shall be in a form identified in Code 17.50.140.A of the Oregon City Municipal Code. The guarantee shall remain in effect for two years from the establishment of the guarantee and until accepted by the City.

**Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*17.62.065 - Outdoor lighting.*

*B. Applicability.*

*1. General.*

- a. All exterior lighting for any type of commercial, mixed-use, industrial or multi-family development shall comply with the standards of this section, unless excepted in subsection B.3.*
- b. The city engineer/public works director shall have the authority to enforce these regulations on private property if any outdoor illumination is determined to present an immediate threat to the public health, safety and welfare.*

**Finding: Not Applicable.** The applicant has proposed a parking lot. A lighting plan is not provided with this application because the property owner is not proposing lighting for the parking lot or in the right-of-way. Use of these new parking stalls is anticipated to be during daytime hours only. According to the applicant, business hours for tenants in the commercial building are between the hours of 8 am and 5 pm. Night time use of the parking lot is not anticipated to be a common occurrence.

*17.62.080 - Special development standards along transit streets.*

*B. Applicability. Except as otherwise provide in this section, the requirements of this section shall apply to the construction of new retail, office and institutional buildings which front on a transit street.*

**Finding: Not Applicable.** No buildings are proposed.

*17.62.085 - Refuse and recycling standards for commercial, industrial, and multi-family developments.*

*The purpose and intent of these provisions is to provide an efficient, safe and convenient refuse and recycling enclosure for the public as well as the local collection firm. All new development, change in property use, expansions or exterior alterations to uses other than single-family or duplex residences shall include a refuse and recycling enclosure. The area(s) shall be:*

- A. Sized appropriately to meet the needs of current and expected tenants, including an expansion area if necessary;
- B. Designed with sturdy materials, which are compatible to the primary structure(s);
- C. Fully enclosed and visually screened;
- D. Located in a manner easily and safely accessible by collection vehicles;
- E. Located in a manner so as not to hinder travel lanes, walkways, streets or adjacent properties;
- F. On a level, hard surface designed to discharge surface water runoff and avoid ponding;
- G. Maintained by the property owner;
- H. Used only for purposes of storing solid waste and recyclable materials;
- I. Designed in accordance with applicable sections of the Oregon City Municipal Code (including Chapter 8.20—Solid Waste Collection and Disposal) and city adopted policies.

**Finding: Not Applicable.** No buildings are proposed and therefore no new refuse areas are proposed.

## **CHAPTER 17.52 OFF-STREET PARKING AND LOADING**

*17.52.015 - Planning commission adjustment of parking standards.*

*A. Purpose: The purpose of permitting a planning commission adjustment to parking standards is to provide for flexibility in modifying parking standards in all zoning districts, without permitting an adjustment that would adversely impact the surrounding or planned neighborhood. The purpose of an adjustment is to provide flexibility to those uses which may be extraordinary, unique or to provide greater flexibility for areas that can accommodate a denser development pattern based on existing infrastructure and ability to access the site by means of walking, biking or transit. An adjustment to a minimum or maximum parking standard may be approved based on a determination by the planning commission that the adjustment is consistent with the purpose of this Code, and the approval criteria can be met.*

*B. Procedure: A request for a planning commission parking adjustment shall be initiated by a property owner or authorized agent by filing a land use application. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development and parking plan, the extent of the adjustment requested along with findings for each applicable approval criteria. A request for a parking adjustment shall be processed as a Type III application as set forth in [Chapter 17.50](#).*

**Finding: Complies as Proposed.** This land use application submission packet includes an application for a Type III Parking Adjustment, which requests approval to exceed the maximum parking allowance onsite by six spaces. The commercial development at 221 Molalla was renovated from a lumber yard to a commercial mixed use building in 2005, and 79 parking spaces were built to serve the building, which fit within the minimum and maximum number of parking spaces required by code. Between 2005 and today, the property manager leased an additional 16 spaces through a shared parking agreement, to arrive at 95 total spaces provided today. The maximum allowed by code is based on the square footage of the building and the uses of the building. The current allowance for this building is 101 spaces based on the existing uses. The applicant has proposed to exceed the maximum spaces for a total of 107 spaces.

The applicant is requesting this adjustment to allow the owner to construct additional parking spaces for the current building tenants, who are requesting additional parking spaces for their staff and visitors. The Planning Commission may approve an adjustment if it finds that the request is consistent with the purpose of this code and the approval criteria are met.

As stated above, the purpose of this code is to provide flexibility to those uses which may be extraordinary or unique. The applicant has provided a detailed description of the uses of the commercial building, including the various tenants and the activities that occur in the building. They have also submitted a parking analysis of the existing parking lot and on-street parking in the vicinity. An analysis of the request can be found below.

*C. Approval criteria for the adjustment are as follows:*

1. *Documentation: The applicant shall document that the individual project will require an amount of parking that is different from that required after all applicable reductions have been taken.*

**Finding: Complies as Proposed.** The reductions alluded to in this section are not relevant to this discussion, as the applicant has proposed to exceed the maximum parking, not to reduce the minimum. Therefore, this standard should be read to require that the applicant demonstrate that the parking needs for the project are greater than that allowed by code.

The applicant provided ample information regarding the number of employees currently working in the building, and the number of visitors that typically attend meetings and trainings. The applicant did not, however, demonstrate that the use is extraordinary compared to other office uses in Oregon City. The number of employees is not a criteria for determining parking requirements. The number of employees is a number that fluctuates, and furthermore, employees may not all work the same hours, and may use a different mode of transport to commute to work. Instead, the City bases parking requirements on square footage of a building and the use of the building. Staff finds that the rationale for a parking adjustment should NOT be based on the number of employees; instead, the parking adjustment may be appropriate for this particular case because of the mixed use nature of the building and the history of use changes within the building. The original land use approval for the building (SP 05-18) based the parking on over 9,000 square feet of retail space. Also, the building is designed for ground floor retail uses through the use of storefront windows and high ceilings.

Building tenants change over time and often shift occupancy among allowed uses in the municipal code. The mixed use (MUC-1) zone allows for a mix of uses but does not require a mix for any particular development; meaning that the building could house all office uses, or all retail uses, in addition to other permitted uses in the MUC-1 zone. The City does not have a parking ratio for a mixed use building; instead, parking ratios are based on the use: office, retail, industrial, etc. Retail uses allow for up to 5 spaces per thousand square feet, while office uses allow for up to 3.3 spaces per thousand square feet.

At this building, the proportion of retail has decreased over time, converting more leasable area to office. According to the parking maximums calculated for the current proportion of office and retail uses under Section 17.52.020, this site is now limited to a maximum of 101 onsite parking spaces, a reduction from the original 105 maximum spaces permitted through SP 05-18, when more of the tenant space was filled by retail uses.

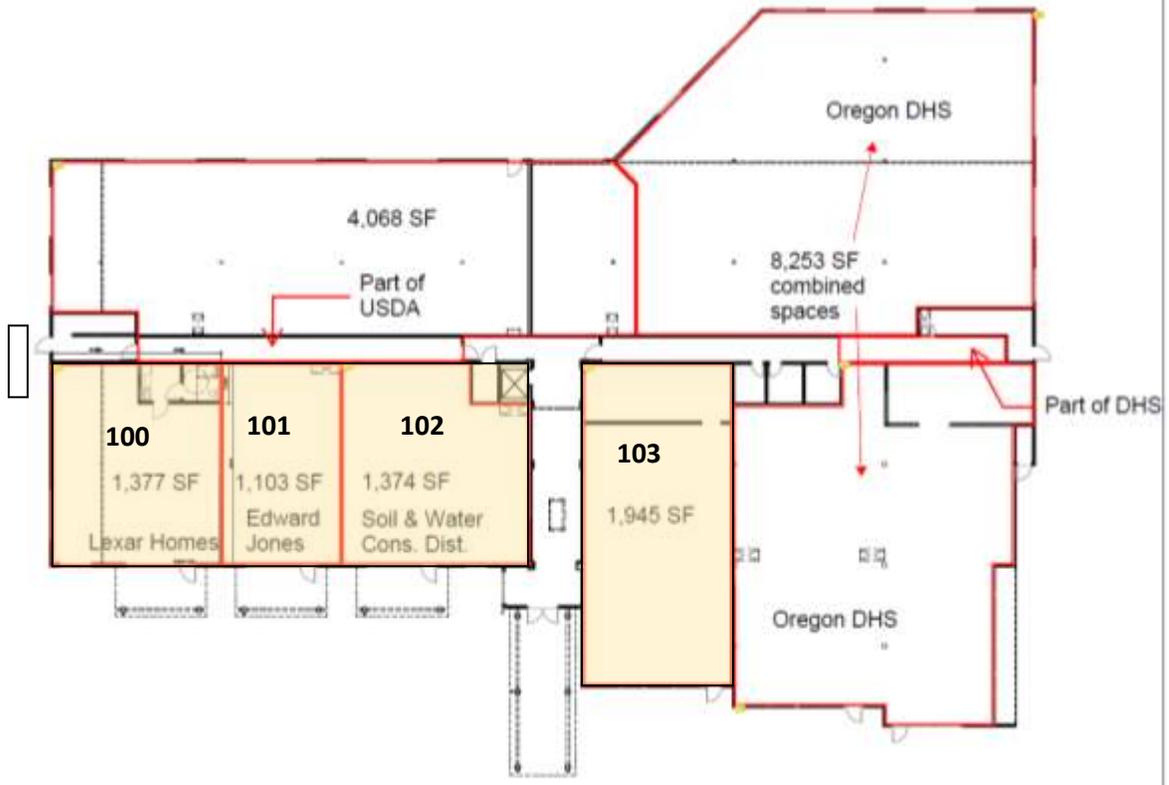
**Table 3: Current Net Leasable Area: 221 Molalla Ave. Commercial Building**

Tenant Suites	Use	SF
<i>1st Floor</i>		
Lexar Homes, Ste. 100	Retail	1,377
Edward Jones, Ste. 101	Retail	1,103
Soil & Water Conservation District, Ste. 102	Office	1,374
Oregon DSH Expansion, Ste. 103 (former MinutePress)	Office	1,945
Oregon DHS, Ste. 104	Office	8,253
USDA, Ste. 120	Office	4,068
<i>1<sup>st</sup> Floor Subtotal</i>		<i>18,120</i>
<i>2nd Floor</i>		
DHS Expansion, Ste. 200 (former Planning Office)	Office	4,413
Dept. of Justice Exp., Ste 220 (Formerly Redside Development)	Office	4,738
Dept. of Justice (main), Ste. 223	Office	1,837
<i>2<sup>nd</sup> Floor Subtotal</i>		<i>10,988</i>
<b>Total Net Leasable Area</b>		
		<b>29,108</b>
<b>Total Retail SF</b>		<b>2,480</b>
<b>Total Office SF</b>		<b>26,628</b>

Staff finds it is reasonable to consider that additional ground floor tenant spaces may be converted from office to retail use in the future. For this reason, the Planning Commission may consider a parking adjustment that reflects a higher amount of retail space than what is currently provided in today's tenant mix. Below are a few scenarios that may be considered:

#### Scenario A

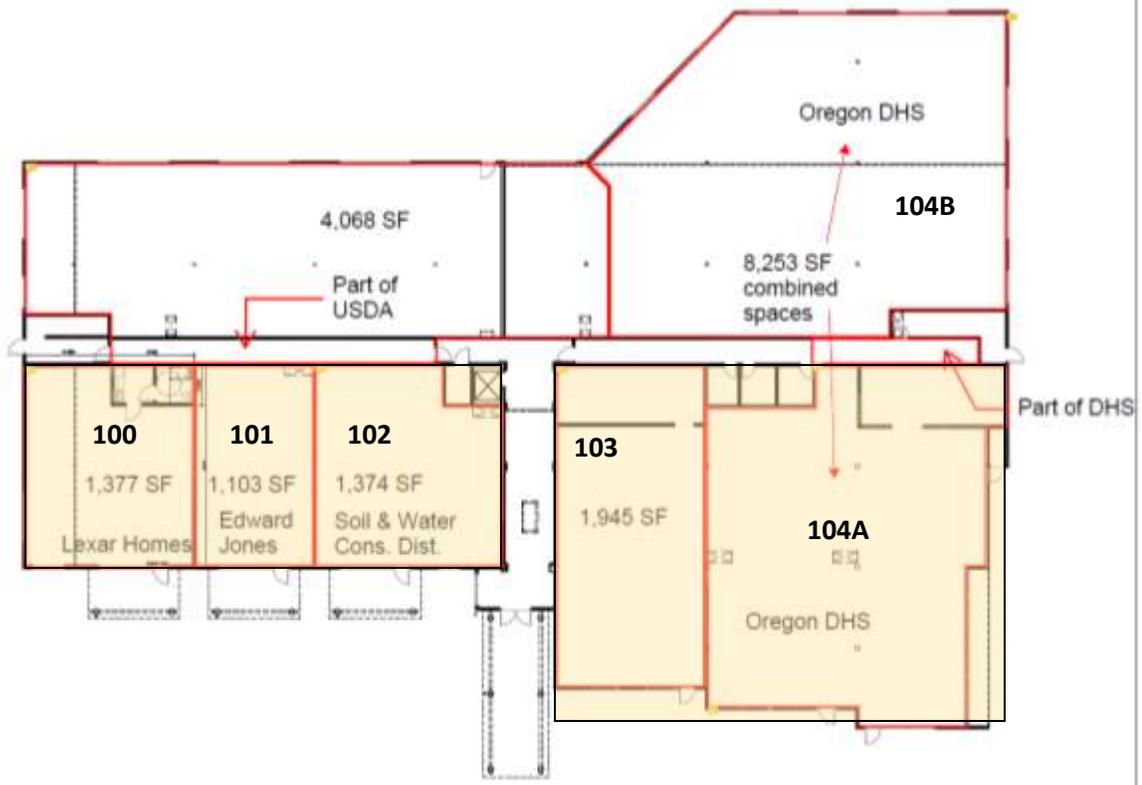
Suites 100 and 101 are existing retail uses. If future tenant mix restores retail uses to the two additional smaller ground floor suites that have main entrances on the front of the building (102 and 103), then the maximum parking allowance for the development will be 106 spaces. These spaces have held retail uses in the past.



*Scenario A with retail uses shown in yellow*

**Scenario B**

Suites 100 and 101 are existing retail uses. If future tenant mix restores retail uses to all of the ground floor suites that have main entrances on the front of the building (102, 103, and a portion of 104), then the maximum parking allowance for the development will be 113 spaces. The DHS space has not been a retail space in the past, and it would likely require more extensive tenant improvements to be built as a retail space. However, the space is on the ground floor, with an entry on the front, which gives it good potential for retail uses in the future.



Scenario B with retail uses shown in yellow.

**Table 1. Comparison of Parking Maximums under various Retail Space Scenarios**  
(Parking Maximums are per 1000 square feet of net leasable area)

Suite	Size (sq ft)	Office Maximum	Retail Maximum	Current Parking allowance	Scenario A	Scenario B
100	1377	3.33	5	Retail 6.9	Retail 6.9	Retail 6.9
101	1103	3.33	5	Retail 5.5	Retail 5.5	Retail 5.5
102	1374	3.33	5	Office 4.6	Retail 6.9	Retail 6.9
103	1945	3.33	5	Office 6.5	Retail 9.7	Retail 9.7
104	8253	3.33	5	Office 27.5	Office 27.2	
104A	3500	3.33	5			Retail 17.5
104B	4753	3.33	5			Office 15.8
120	4068	3.33	5	Office 13.5	Office 13.4	Office 13.5
Second Floor	10988	3.33	5	Office 36.6	Office 36.3	Office 36.6
<b>TOTAL</b>				<b>101.1</b>	<b>105.9</b>	<b>112.5</b>

The amount of retail space in Scenario A is approximately 5,800 square feet, and in Scenario B is approximately 9,300 square feet. This amount of retail space is almost the same as the 9,255 square feet of retail that was approved in SP 05-18. Under these scenarios, 106 and 113 parking stalls would be allowed, respectively. An Adjustment to allow 107 parking spaces will enable the project to construct parking to accommodate fluctuating parking needs over time, while reflecting the historical tenant mix of the building.

The Adjustment requests approval of up to 107 parking spaces for the development. As proposed, the new surface parking lot will provide ten additional spaces for a total of 105 off-street spaces provided. Approving an allowance of 107 spaces at this time will enable the applicant to secure up to two more spaces in the future without undergoing another Adjustment request. These additional spaces could potentially be achieved through additional leased spaces from other commercial property owners or a modified parking layout of existing surface parking areas.

*2. Parking analysis for surrounding uses and on-street parking availability: The applicant must show that there is a continued fifteen percent parking vacancy in the area adjacent to the use during peak parking periods and that the applicant has permission to occupy this area to serve the use pursuant to the procedures set forth by the community development director.*

*a. For the purposes of demonstrating the availability of on street parking as defined in [Section] 17.52.020.B.3., the applicant shall undertake a parking study during time periods specified by the community development director. The time periods shall include those during which the highest parking demand is anticipated by the proposed use. Multiple observations during multiple days shall be required. Distances are to be calculated as traversed by a pedestrian that utilizes sidewalks and legal crosswalks or an alternative manner as accepted by the community development director.*

*b. The onsite parking requirements may be reduced based on the parking vacancy identified in the parking study. The amount of the reduction in onsite parking shall be calculated as follows:*

*i. Vacant on-street parking spaces within three hundred feet of the site will reduce onsite parking requirements by 0.5 parking spaces; and*

*ii. Vacant on-street parking spaces between three hundred and six hundred feet of the [site] will reduce onsite parking requirements by 0.2 parking spaces.*

**Finding: Complies as Proposed.** This criteria language assumes the Parking Adjustment requests providing off-street parking at levels below the minimum code requirement. In this instance, the project is requesting approval to exceed the off-street maximum parking, rather than reduce below the minimum requirement. For this reason, most of the items discussed in Item 2 are not applicable.

The applicant conducted a parking occupancy study of the existing parking lots to meet this criterion. Detailed information is provided in the Traffic Analysis Letter (Exhibit 2). The existing inventory was surveyed on three consecutive weekdays in November 2018.

The study found that the 52 spaces in the surface lot at the corner of Pearl and Molalla were observed to have an average occupancy of 98% during the study, with 100% occupancy observed on two of the three days of monitoring. The 27 spaces directly in front of the building had an average occupancy of 90%, while the restricted spaces had an average occupancy rate of 67% for the 30 minute parking and 25% for the accessible parking. The applicant did not review the occupancy rate of the 16 shared parking spaces. The results of the parking study support the reports of building management that parking is typically at capacity onsite, forcing employees and visitors to utilize residential public streets for overflow parking.

The study found that the average off-street parking occupancy for the site is 91%. Rates over 85% typically indicate insufficient parking, or in the case of paid on-street parking, it indicates that prices may be set too low for the market. Parking conditions for the site reflect that insufficient vacancy exists to accommodate parking demand off-street created by the commercial development. The applicant's parking counts provide evidence that the additional parking will in fact be utilized, due to parking demand.

On-street parking conditions were evaluated within a 500-foot radius from the commercial building 221 Molalla Avenue. There are approximately 85 on-street parking spaces within the study area. Molalla Avenue does not have on street parking, and on Roosevelt and Pearl, on-street parking is limited to one side of the street. On Roosevelt and on a portion of Pearl, on-street parking is limited to two hours. On-street parking is free in the project area. The peak on-street parking demand for the entire study area of 40 vehicles was observed mid-morning on Thursday, November 29 with an occupancy of 47% on-street parking, leaving a parking reserve of 53%, or 45 spaces within a 500 foot radius.

If a parking reduction was requested, the applicant could utilize the vacant on-street parking spaces to qualify for a reduction in on-site parking spaces. However, the applicant has not proposed a reduction and instead requests more on-site parking. It is expected that staff and visitors will continue to use on-street parking as needed.

*3. Function and Use of Site: The applicant shall demonstrate that modifying the amount of required parking spaces will not significantly impact the use or function of the site and/or adjacent sites.*

The applicant states that modifying the amount of maximum parking allowed under the Oregon City Municipal Code for the current mix of office and retail tenants will have a positive impact on the surrounding area because it will return several on-street parking spaces to the abutting residential roads for residential parking needs.

The applicant also states that at the Neighborhood Association Meeting, residents on Roosevelt Street and Pearl Street were present and attested to the parking congestion that they observe each day from the overflow parking generated by the employees of the commercial building tenants.

Approving the adjustment to increase the off-street parking allowance will not negatively impact the site or adjacent properties. The additional spaces requested under this Parking Adjustment will not trigger additional vehicle trips from what is currently generated by the site. Rather, it will shift a greater portion of the parking that is already established by the building's uses into off-street parking spaces. The demands on on-street parking will likely be reduced as a result, which may benefit the residential residents on the abutting streets of Roosevelt and Pearl.

*4. Compatibility: The proposal is compatible with the character, scale and existing or planned uses of the surrounding neighborhood.*

The applicant states that the parking lot is consistent with the character and scale of existing uses on this block. The new parking lot is adjacent to existing surface parking areas established for 212 Molalla Ave, 220 Molalla Ave., and 325 Pearl St. Surface parking lots surround the other commercial businesses and the multifamily building that is located on this block, bound by Molalla Avenue on the east, Pearl Street on the south, and Myrtle Street on the east. Constructing a small, 10-stall parking lot on the west parcel of the site is compatible with the existing improvements in this area and will directly abut the existing parking lot for Loncheria Mitzil Mexican Eatery next door.

The new parking lot could also present shared parking opportunities with future development that requires parking in the evening or at night, when the parking lot is not needed for the commercial building. The zoning of the area allows mixed use, restaurant, and residential uses that may be interested in shared parking opportunities.

*6. Safety: The proposal does not significantly impact the safety of adjacent properties and rights-of-way.*

The parking lot is designed in conformance with City engineering standards, ensuring that turning, maneuvering and egress routes are adequately laid out for safe use The Traffic Impact Analysis Letter

documents that the new driveway access on Myrtle St. will have little or no interaction with other vehicles on Myrtle St. and thus, no inherent safety issues are anticipated.

The small 10-car capacity of the parking lot will be utilized by building tenants who will park for long periods of time during the weekday. This form of long duration parking is not expected to generate a frequent turn-over of parking during the day; and therefore, is also not expected to generate a high level of traffic on Myrtle St. As a result, significant impacts are not expected for the safety of adjacent properties and rights-of way. The Traffic Analysis Letter was reviewed by the City’s traffic consultant John Replinger, who found no safety impacts (Exhibit 4).

6. *Services: The proposal will not create a significant impact to public services, including fire and emergency services.*

**Finding: Complies as Proposed.** The additional onsite parking proposed is not anticipated to utilize public service connections. A demand for new utility services is not required for the parking lot improvements (e.g. water or electricity). The need for fire or emergency services should be minimal, given no structures are proposed. No comments were received from Clackamas County Fire District.

17.52.020 - Number of automobile spaces required.

A. *The number of parking spaces shall comply with the minimum and maximum standards listed in Table 17.52.020. The parking requirements are based on spaces per one thousand square feet net leasable area unless otherwise stated.*

Table 17.52.020		
LAND USE	PARKING REQUIREMENTS	
	<u>MINIMUM</u>	<u>MAXIMUM</u>
Retail Store, Shopping Center, Restaurants	4.10	5.00
Office	2.70	3.33

1. *Multiple Uses. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.*

**Finding: Complies with Condition.** The building at 221 Molalla Avenue contains approximately 29,108 square feet of net leasable area. This is an increase of 2,272 square feet in leasable area since the 2005 land use review SP 05-18. The increase in net leasable area is attributed to changes in floor plan layouts that converted and absorbed common areas, such as corridors and closets, into tenant suites. This change is most notable on the first floor, where the USDA office space and Department of Human Services expanded their office spaces to absorb significant portions of corridor area.

The table below summarizes the current allocation of net leasable building area and uses in the commercial building. Approximately 2,480 square feet of net leasable area is occupied by retail uses, while approximately 26,628 square feet is occupied by office uses.

Table 17.52.020 Number of automobile spaces required. LAND USE	SF Leasable Area	PARKING REQUIREMENTS RATIO		NUMBER OF SPACES REQUIRED	
		MINIMUM	MAXIMUM	MINIMUM	MAXIMUM
Office	26,628	2.7	3.33	72	89
Retail	2,480	4.1	5.5	10	12
<b>TOTAL</b>				<b>82</b>	<b>101</b>

The parking currently provided includes 79 spaces on site, plus 16 additional shared spaces across Molalla Avenue. The applicant provided a copy of the lease with the neighboring property owner to demonstrate the existence of the shared parking spaces. The total parking currently provided is 95 spaces, which is between the minimum of 82 and the maximum of 101.

The applicant has requested a parking adjustment to increase the maximum parking spaces allowed to 107, and has requested to building a 10-space parking lot to serve the building. If the adjustment is approved, the number of parking spaces will comply. The applicant may only add parking spaces above 101 spaces if the adjustment is approved by the Planning Commission. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*2. Requirements for types of buildings and uses not specifically listed herein shall be determined by the community development director, based upon the requirements of comparable uses listed.*

**Finding: Not Applicable.** The applicant has not proposed a use not specifically listed.

*3. Where calculation in accordance with the above list results in a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.*

**Finding: Complies as Proposed.** Fractions were rounded in accordance with this chapter.

*4. The minimum required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of vehicles used in conducting the business or use.*

**Finding: Complies as Proposed.** The applicant's narrative states that parking spaces provided in the surface parking lots are used only for operable vehicles associated with visitor, employee, and business parking needs. The long-term storage of vehicles is not allowed.

*5. A change in use within an existing habitable building located in the MUD Design District or the Willamette Falls Downtown District is exempt from additional parking requirements. Additions to an existing building and new construction are required to meet the minimum parking requirements for the areas as specified in Table 17.52.020 for the increased square footage.*

**Finding: Not Applicable.** The applicant has not proposed to change the use of an existing building.

*B. Parking requirements can be met either onsite, or offsite by meeting the following conditions:*

*1. Mixed Uses. If more than one type of land use occupies a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (e.g. the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly, up to a maximum reduction of fifty percent, as determined by the community development director.*

*2. Shared Parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature), that the shared parking facility is within one thousand feet of the potential uses, and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument authorizing the joint use.*

*3. On-Street Parking. On-street parking may be counted toward the minimum standards when it is on the street face abutting the subject land use. An on-street parking space must not obstruct a required clear vision area and it shall not violate any law or street standard. On-street parking for commercial uses shall conform to the following standards:*

*a. Dimensions. The following constitutes one on-street parking space:*

*1. Parallel parking, each [twenty-two] feet of uninterrupted and available curb;*

2. *[Forty-five/sixty] degree diagonal, each with [fifteen] feet of curb;*
3. *Ninety degree (perpendicular) parking, each with [twelve] feet of curb.*
4. *Public Use Required for Credit. On-street parking spaces counted toward meeting the parking requirements of a specific use may not be used exclusively by that use, but shall be available for general public use at all times. Signs or other actions that limit general public use of on-street spaces are prohibited.*

**Finding: Complies with Condition.** The parking ratio is based on the mix of uses as previously discussed. The applicant has not proposed to utilize existing on-street parking. The parking currently provided includes 79 spaces on site, plus 16 additional shared spaces. An additional 10 spaces are proposed off-street. Ten of the shared spaces are located on the tax lot addressed as 635 Pearl St, and 212 Molalla Ave, where Loncheria Mitzil Mexican eatery is located. The building at 635 Pearl Street is a residential use which is not subject to minimum parking requirements. The applicant demonstrates that the existing restaurant can still meet its parking needs through the parking spaces that are not shared. The 2000-square-foot restaurant requires a minimum of 8 spaces; and the existing parking lot contains at least 20 spaces.

The remaining six spaces are located on the tax lot addressed as 220 Molalla. Both of these tax lots are held under common ownership. The applicant provided a copy of the lease with the neighboring property owner to demonstrate the existence and legality of the shared parking spaces. The shared parking is within 1000 feet of the property. The shared parking spaces are not needed for the original uses at 220 Molalla because the building that the parking lot serves is currently vacant. If this building becomes occupied, or if the property is otherwise developed with a building, a Type I Site Plan review will be required to determine whether the shared parking may continue or if it is needed by the primary uses at 220 Molalla Avenue. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*C. Reduction of the Number of Automobile Spaces Required. The required number of parking stalls may be reduced in the Downtown Parking Overlay District: Fifty percent reduction in the minimum number of spaces required is allowed prior to seeking further reductions in [sub]sections 2. and 3. below:*

1. *Transit Oriented Development. For projects not located within the Downtown Parking Overlay District, the community development director may reduce the required number of parking stalls up to twenty-five percent when it is determined that a project in a commercial center (sixty thousand square feet or greater of retail or office use measured cumulatively within a five hundred-foot radius) or multi-family development with over eighty units, is adjacent to or within one thousand three hundred twenty feet of an existing or planned public transit street and is within one thousand three hundred twenty feet of the opposite use (commercial center or multi-family development with over eighty units).*

**Finding: Not Applicable.** The applicant has not requested to utilize the transit oriented development parking reduction.

2. *Reduction in Parking for Tree Preservation. The community development director may grant an adjustment to any standard of this requirement provided that the adjustment preserves a regulated tree or grove so that the reduction in the amount of required pavement can help preserve existing healthy trees in an undisturbed, natural condition. The amount of reduction must take into consideration any unique site conditions and the impact of the reduction on parking needs for the use, and must be approved by the community development director. This reduction is discretionary.*

**Finding: Not Applicable.** The applicant has not requested to utilize the tree preservation parking reduction.

3. *Transportation Demand Management. The community development director may reduce the required number of parking stalls up to twenty-five percent when a parking-traffic study prepared by a traffic engineer demonstrates:*

**Finding: Not Applicable.** The applicant has requested to utilize the Transportation Demand Management parking reduction.

17.52.030 - Standards for automobile parking.

A. Access. Ingress and egress locations on public thoroughfares shall be located in the interests of public traffic safety. Groups of more than four parking spaces shall be so located and served by driveways so that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley. No driveway with a slope of greater than fifteen percent shall be permitted without approval of the city engineer.

**Finding: Complies as Proposed.** The applicant has provided an ingress and egress location on public thoroughfares in the interests of public traffic safety and there are no groups of more than four parking spaces which are required to be served by driveways. Backing movements or other maneuvering have been confined to the existing alley. The slope of the driveway connecting the parking spaces to the street is proposed at less than 15 percent.

B. Surfacing. Required off-street parking spaces and access aisles shall have paved surfaces adequately maintained. The use of pervious asphalt/concrete and alternative designs that reduce storm water runoff and improve water quality pursuant to the city's stormwater and low impact development design standards are encouraged.

**Finding: Complies as Proposed.** The applicant has proposed paved surfaces for all off-street parking spaces and access aisles.

C. Drainage. Drainage shall be designed in accordance with the requirements of [Chapter 13.12](#) and the city public works stormwater and grading design standards.

**Finding:** Please refer to the findings in Chapter 13.12 of this report.

D. Dimensional Standards.

1. Requirements for parking developed at varying angles are according to the table included in this section. A parking space shall not be less than seven feet in height when within a building or structure, and shall have access by an all-weather surface to a street or alley. Parking stalls in compliance with the American with Disabilities Act may vary in size in order to comply with the building division requirements. Up to thirty-five percent of the minimum required parking may be compact, while the remaining required parking stalls are designed to standard dimensions. The community development director may approve alternative dimensions for parking stalls in excess of the minimum requirement which comply with the intent of this chapter.

2. Alternative parking/plan. Any applicant may propose an alternative parking plan. Such plans are often proposed to address physically constrained or smaller sites, however innovative designs for larger sites may also be considered. In such situations, the community development director may approve an alternative parking lot plan with variations to parking dimensions of this section. The alternative shall be consistent with the intent of this chapter and shall create a safe space for automobiles and pedestrians while providing landscaping to the quantity and quality found within parking lot landscaping requirements.

PARKING

STANDARD

PARKING ANGLE SPACE DIMENSIONS

A Parking Angle		B Stall Width	C Stall Curb	to	D Aisle Width	E Curb Length	F Overhang
90 degrees	Standard Compact	9' 8'	19.0' 16.0'		24' 22'	9' 8'	1.5

**Finding: Complies with Condition.** The applicant has proposed ten on-site 90-degree parking stalls. The project complies with the dimensional standards outlined for compact parking spaces. Each parking space proposed complies with the minimum dimensions of 8 feet wide by 16 feet deep. A 22-foot wide drive aisle is provided behind each space. All ten parking spaces are allowed to be designed with compact dimensions because, per 17.52.030.D.1, up to 35 percent of the minimum required parking can be designated as compact spaces.

Currently, all 79 spaces constructed on the development site (e.g. in front of the building and in the lot on Pearl & Molalla) are standard-sized 9-foot by 19-foot stalls. Since no existing compact spaces are

established by the development, all ten new parking spaces are allowed to be constructed as compact. These compact spaces will represent approximately 8 percent of the overall parking held in common ownership.

The proposed design of the parking lot, with no landscaping on the boundary of the new lot line between proposed Parcel 1 and Parcel 2, appears to allow for backing of vehicles into the neighboring property. The applicant shall install a barrier to prevent vehicles from backing into Parcel 2, which is not part of the proposed parking lot, and from entering or exiting the parking lot through Parcel 2. The barrier shall leave enough space for pedestrian access between the two properties, as required in the recommended conditions of approval. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*E. Carpool and Vanpool Parking. New developments with seventy-five or more parking spaces, and new hospitals, government offices, group homes, nursing and retirement homes, schools and transit park-and-ride facilities with fifty or more parking spaces, shall identify the spaces available for employee, student and commuter parking and designate at least five percent, but not fewer than two, of those spaces for exclusive carpool and vanpool parking. Carpool and vanpool parking spaces shall be located closer to the main employee, student or commuter entrance than all other employee, student or commuter parking spaces with the exception of ADA accessible parking spaces. The carpool/vanpool spaces shall be clearly marked "Reserved - Carpool/Vanpool Only."*

**Finding: Complies with Condition.** The project was approved with 4 designated carpool parking spaces under the 2005 land use review SP 05-18. It appears these spaces lost their carpool designation prior to the new property ownership that is our client. Building management has been notified of the requirement and will be reinstating the 4 carpool spaces to comply with City standards. Under this proposal, increasing off-street parking to 107 spaces, a total of 5 carpool parking spaces will be required. If the parking adjustment is approved, the fifth carpool space will be established in the parking lot in front of the building. The applicant shall install the correct number of carpool spaces prior to final city approval of public improvements associated with the new parking lot. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*17.52.040 - Bicycle parking standards.*

*A. Purpose-Applicability. To encourage bicycle transportation to help reduce principal reliance on the automobile, and to ensure bicycle safety and security, bicycle parking shall be provided in conjunction with all uses other than single-family dwellings or duplexes.*

**Finding: Complies as Proposed.** The proposal includes construction of a parking lot, therefore, compliance with bicycle parking standards is required. The project installed five (5) bicycle parking stalls for the office and retail uses under the 2005 land use review SP 05-18. The bicycle racks were installed adjacent to the main entrance of the building, facing Molalla Avenue.

*B. Number of Bicycle Spaces Required. For any use not specifically mentioned in Table A, the bicycle parking requirements shall be the same as the use which, as determined by the community development director, is most similar to the use not specifically mentioned. Calculation of the number of bicycle parking spaces required shall be determined in the manner established in Section 17.52.020 for determining automobile parking space requirements. Modifications to bicycle parking requirements may be made through the site plan and design, conditional use, or master plan review process.*

**TABLE A Required Bicycle Parking Spaces\***

*Where two options for a requirement are provided, the option resulting in more bicycle parking applies. Where a calculation results in a fraction, the result is rounded up to the nearest whole number.*

*\* Covered bicycle parking is not required for developments with two or fewer stalls.*

**Required Bicycle Parking Spaces\***

USE	MINIMUM BICYCLE PARKING	MINIMUM BICYCLE PARKING - COVERED
Office and Retail	1 per 20 auto spaces (minimum of	50% (minimum of two)

two)	
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\* Covered bicycle parking is not required for developments with two or fewer stalls.

**Finding: Complies with Condition.** One additional rack will be required if the site is approved with 107 parking spaces. At the time these were installed in 2005, there was not a requirement for a portion of the racks to be covered. In this case, the additional rack will be installed in a covered location to comply with current code requirements. The new bicycle rack will be provided under the covered breezeway, adjacent to the main entrance. The applicant shall install the new covered bicycle parking space prior to final city approval of public improvements associated with the new parking lot. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*C. Security of Bicycle Parking. Bicycle parking facilities shall be secured. Acceptable secured bicycle parking area shall be in the form of a lockable enclosure onsite, secure room in a building onsite, a covered or uncovered rack onsite, bicycle parking within the adjacent right-of-way or another form of secure parking where the bicycle can be stored, as approved by the decision maker. All bicycle racks and lockers shall be securely anchored to the ground or to a structure. Bicycle racks shall be designed so that bicycles may be securely locked to them without undue inconvenience and, when in the right-of-way shall comply with clearance and ADA requirements.*

**Finding: Complies as Proposed.** The applicant's narrative identified that the proposed bicycle parking rack will be anchored to the concrete and will be secured.

*D. Bicycle parking facilities shall offer security in the form of either a lockable enclosure or a stationary rack to which the bicycle can be locked. All bicycle racks and lockers shall be securely anchored to the ground or to a structure. Bicycle racks shall be designed so that bicycles may be securely locked to them without undue inconvenience.*

**Finding:** Please refer to the analysis in 17.52.040.C.

*Location of Bicycle Parking:*

*1. Bicycle parking shall be located on-site, in one or more convenient, secure and accessible location. The city engineer and the community development Director may permit the bicycle parking to be provided within the right-of-way provided adequate clear zone and ADA requirements are met. If sites have more than one building, bicycle parking shall be distributed as appropriate to serve all buildings. If a building has two or more main building entrances, the review authority may require bicycle parking to be distributed to serve all main building entrances, as it deems appropriate.*

**Finding: Complies as Proposed.** The applicant's site plan identifies bicycle parking near the corner of the alley and Harrison Street. The location is secure, convenient and accessible for all of the apartment units.

*2. Bicycle parking areas shall be clearly marked or visible from on-site buildings or the street. If a bicycle parking area is not plainly visible from the street or main building entrance, a sign must be posted indicating the location of the bicycle parking area. Indoor bicycle parking areas shall not require stairs to access the space unless approved by the community development director.*

**Finding: Complies as Proposed.** The applicant's narrative states that should an additional bicycle space be required, the rack will be located under the breezeway along the wall south of the main entrance. The walkway is wide enough in this area to accommodate the bike rack and maintain adequate spacing for ADA requirements and pedestrian clearances.

*3. All bicycle parking areas shall be located to avoid conflicts with pedestrian and motor vehicle movement.*

*a. Bicycle parking areas shall be separated from motor vehicle parking and maneuvering areas and from arterial streets by a barrier or a minimum of five feet.*

b. Bicycle parking areas shall not obstruct pedestrian walkways; provided, however, that the review authority may allow bicycle parking in the right-of-way where this does not conflict with pedestrian accessibility.

**Finding: Complies as Proposed.** The proposed bicycle parking location is separated from motor vehicle parking and maneuvering areas, and does not interfere with pedestrian or motor vehicle movement.

**17.52.040.D.4. Accessibility.**

a. Outdoor bicycle areas shall be connected to main building entrances by pedestrian accessible walkways.

b. Outdoor bicycle parking areas shall have direct access to a right-of-way.

c. Outdoor bicycle parking should be no farther from the main building entrance than the distance to the closest vehicle space, or fifty feet, whichever is less, unless otherwise determined by the community development director, city engineer, or planning commission.

**Finding: Complies as Proposed.** Should an additional bicycle space be required, the location proposed under the breezeway south of the main lobby entrance will provide the pedestrian visibility and connectivity required by this standard.

**17.52.060 - Parking lot landscaping.**

**A. Development Standards.**

1. The landscaping shall be located in defined landscaped areas that are uniformly distributed throughout the parking or loading area.

**Finding: Complies as Proposed.** The proposed landscaping throughout the parking lot is uniformly distributed. These landscape areas are uniformly distributed around the north, south, and west perimeter of the parking lot. An interior planter is proposed in the middle of the small parking lot for a balanced approach to the design.

2. All areas in a parking lot not used for parking, maneuvering, or circulation shall be landscaped.

**Finding: Complies as Proposed.** All areas in the parking lot not used for parking, maneuvering, or circulation are landscaped.

3. Parking lot trees shall be a mix of deciduous shade trees and coniferous trees. The trees shall be evenly distributed throughout the parking lot as both interior and perimeter landscaping to provide shade.

**Finding: Complies as proposed.** The landscape plan includes Hawthorn, Hornbeam and Cedar trees to provide a mix.

4. Required landscaping trees shall be of a minimum two-inch minimum caliper size (though it may not be standard for some tree types to be distinguished by caliper), planted according to American Nurseryman Standards, and selected from the Oregon City Street Tree List;

**Finding: Complies with Condition.** The landscape plan identifies 2" caliper trees.

5. Landscaped areas shall include irrigation systems unless an alternate plan is submitted, and approved by the community development director, that can demonstrate adequate maintenance;

**Finding: Complies as Proposed.** The project proposes an alternative landscape plan in lieu of automatic irrigation. Hardy, native, low-maintenance plants have been selected for the plant schedule. To provide adequate watering during the dry season of the establishment period, property management will have the landscaper install slow release watering bags for the plant materials when they are installed. If plants do not survive due to underwatering, code enforcement action will be taken per standard city procedures.

6. All plant materials, including trees, shrubbery and ground cover should be selected for their appropriateness to the site, drought tolerance, year-round greenery and coverage and staggered flowering periods. Species found on the Oregon City Native Plant List are strongly encouraged and species found on the Oregon City Nuisance Plant List are prohibited.

**Finding: Complies as Proposed.** No nuisance plants were identified within the parking lot landscaping area. The plan submitted by the applicant was prepared by a landscape architect to assure appropriate species.

7. *The landscaping in parking areas shall not obstruct lines of sight for safe traffic operation and shall comply with all requirements of Chapter 10.32, Traffic Sight Obstructions.*

**Finding: Complies as Proposed.** The proposed parking lot landscaping does not obstruct lines of sight for safe traffic operation or otherwise interfere with vehicular circulation.

8. *Landscaping shall incorporate design standards in accordance with Chapter 13.12, Stormwater Management.*

**Finding:** Please refer to the analysis in Chapter 13.12 of this report.

*B. Perimeter Parking Lot Landscaping and Parking Lot Entryway/Right-of-Way Screening. Parking lots shall include a five-foot wide landscaped buffer where the parking lot abuts the right-of-way and/or adjoining properties. In order to provide connectivity between non-single-family sites, the community development director may approve an interruption in the perimeter parking lot landscaping for a single driveway where the parking lot abuts property designated as multi-family, commercial or industrial. Shared driveways and parking aisles that straddle a lot line do not need to meet perimeter landscaping requirements.*

**Finding: Complies as Proposed.** The landscaping plan includes a 5-foot wide landscape buffer along all perimeter areas except the shared rear property line at the east side of the parking lot. Please reference the response under Section 17.62.015, above, for more discussion on how the approval criteria of this modification is satisfied with more robust landscaping in other perimeter areas.

1. *The perimeter parking lot are[a] shall include:*

*a. Trees spaced a maximum of thirty-five feet apart (minimum of one tree on either side of the entryway is required). When the parking lot is adjacent to a public right-of-way, the parking lot trees shall be offset from the street trees;*

**Finding: Complies as Proposed.** The perimeter parking lot landscaping includes trees spaced a maximum of 35 feet apart, and includes a tree on either side of the parking lot entryway.

*b. Ground cover, such as wild flowers, spaced a maximum of 16-inches on center covering one hundred percent of the exposed ground within three years. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees; and*

**Finding: Complies as Proposed.** The perimeter parking lot landscaping includes bearberry as groundcover and notes that bark mulch will not be used except under canopy of shrubs and trees.

*c. An evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average. The hedge/shrubs shall be parallel to and not nearer than two feet from the right-of-way line. The required screening shall be designed to allow for free access to the site and sidewalk by pedestrians. Visual breaks, no more than five feet in width, shall be provided every thirty feet within evergreen hedges abutting public right-of-ways.*

**Finding: Complies as Proposed.** Evergreen shrubs with a mature height between 3 and 5 feet are specified in the perimeter areas on the landscape plan.

*C. Parking Area/Building Buffer. Parking areas shall be separated from the exterior wall of a structure, exclusive of pedestrian entranceways or loading areas, by one of the following:*

*1. Minimum five-foot wide landscaped planter strip (excluding areas for pedestrian connection) abutting either side of a parking lot sidewalk with:*

*a. Trees spaced a maximum of thirty-five feet apart;*

*b. Ground cover such as wild flowers, spaced a maximum of sixteen-inches on center covering one hundred percent*

of the exposed ground within three years. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees; and

c. An evergreen hedge of thirty to forty-two inches or shrubs placed no more than four feet apart on average; or  
2. Seven-foot sidewalks with shade trees spaced a maximum of thirty-five feet apart in three-foot by five-foot tree wells.

**Finding: Complies as Proposed.** This standard does not apply. The west parcel, where the parking lot is proposed, does not contain a structure that requires a landscape buffer from the parking area.

*D. Interior Parking Lot Landscaping. Surface parking lots shall have a minimum ten percent of the interior of the gross area of the parking lot devoted to landscaping to improve the water quality, reduce storm water runoff, and provide pavement shade. Interior parking lot landscaping shall not be counted toward the fifteen percent minimum total site landscaping required by Section 17.62.050(1) unless otherwise permitted by the dimensional standards of the underlying zone district. Pedestrian walkways or any impervious surface in the landscaped areas are not to be counted in the percentage. Interior parking lot landscaping shall include:*

a. A minimum of one tree per six parking spaces.

b. Ground cover, such as wild flowers, spaced a maximum of sixteen-inches on center covering one hundred percent of the exposed ground within three years. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees

c. Shrubs spaced no more than four feet apart on average.

**Finding: Complies as Proposed.** Ten parking spaces are proposed, requiring a minimum of two interior parking lot trees. Two trees are proposed on the plan, a cedar in the center landscape planter and a Hawthorn in the landscape area that extends beyond the perimeter buffer adjacent to the first parking stall entering the parking lot. Shrubs and groundcover are provided as required.

d. No more than eight contiguous parking spaces shall be created without providing an interior landscape strip between them. Landscape strips shall be provided between rows of parking shall be a minimum of six feet in width and a minimum of ten feet in length.

**Finding: Complies as Proposed.** The parking lot includes no more than five spaces in a row.

e. Pedestrian walkways shall have shade trees spaced a maximum of every thirty-five feet in a minimum three-foot by five-foot tree wells; or

Trees spaced every thirty-five feet, shrubs spaced no more than four feet apart on average, and ground cover covering one hundred percent of the exposed ground. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees.

**Finding: Not Applicable.** The applicant has not proposed pedestrian walkways within the parking area, therefore, this standard is not applicable.

*E. Installation.*

1. All landscaping shall be installed according to accepted planting procedures, according to American Nurseryman Standards.

2. The site, soils and proposed irrigation systems shall be appropriate for the healthy and long-term maintenance of the proposed plant species.

3. Certificates of occupancy shall not be issued unless the landscaping requirements have been met or other arrangements have been made and approved by the city, such as the posting of a surety.

**Finding: Complies as Proposed.** The applicant's narrative identified that all landscaping will be installed according to American Nurseryman standards. The applicant has proposed an alternative irrigation system for all landscaped areas.

*17.52.070 - Alternative landscaping plan.*

**Finding: Not Applicable.** The applicant has not proposed an alternative parking lot landscaping plan.

17.52.080 - Maintenance.

The owner, tenant and their agent, if any, shall be jointly and severally responsible for the maintenance of the site including but not limited to the off-street parking and loading spaces, bicycle parking and all landscaping which shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.

All plant growth in interior landscaped areas shall be controlled by pruning, trimming, or otherwise so that:

- a. It will not interfere with the maintenance or repair of any public utility;
- b. It will not restrict pedestrian or vehicular access; and
- c. It will not constitute a traffic hazard due to reduced visibility.

**Finding: Complies as Proposed.** The applicant's narrative identified that the landscaped areas will be maintained by the owner.

17.52.090 - Loading areas.

B. Applicability.

1. [Section 17.52.090](#) applies to uses that are expected to have service or delivery truck visits with a forty-foot or longer wheelbase, at a frequency of one or more vehicles per week. The city engineer and decision maker shall determine through site plan and design review the number, size, and location of required loading areas, if any.

**Finding: Not Applicable.** The site is not expected to have service or delivery truck visits with a forty-foot or longer wheelbase.

## **CHAPTER 16.16 – MINOR PARTITIONS**

### **16.16.010 Purpose and General Provisions.**

A. Minor Partitions shall be processed as a Type II decision by the Community Development Director in the same manner as set forth in Section 16.04.020.A and the applicable provisions in Chapters 16.16 12.04, 16.12 and 17.50 of the Oregon City Municipal Code as well as any other applicable chapter. A minor partition is defined as a single division of land into two or three lots. Approval shall be granted only upon determination that all applicable requirements of this title and ORS Chapter 92 have been met.

**Finding: Complies as Proposed.** Because a Parking Adjustment is requested, the review of the Minor Partition is increased to a Type III, which is the higher level review triggered for a Parking Adjustment.

B. If a parcel of land to be partitioned will create lots large enough to be divided again, the applicant shall provide a hypothetical non-binding plan or "shadow plat" depicting possible future development of the resulting lots.

**Finding: Complies as Proposed.** Because the MUC-1 base zone does not have a minimum lot size or lot width for properties, there is potential for each of the two parcels proposed in this partition to be divided again in the future. Per the requirement of 16.16.010.B, a hypothetical "shadow plat" depicting a possible lot configuration under a future redivision has been provided.

C. Lot Size Limitations for Partitions in Residential Zoning Designations. A residentially zoned parcel of land or the aggregate of contiguous parcels under the same ownership containing sufficient net buildable area to be subdivided by the minimum lot size requirements of the underlying zone into 4 or more lots shall be subject to the Subdivision procedures and standards specified in Sections 16.08 and 16.12. The calculation of the net buildable area for the parcel or lot to be divided shall be determined by the Community Development Director. This standard shall not apply to a multi-family zoning designation.

**Finding: Not Applicable.** The land is not residentially zoned.

D. A parcel of land in existence at the time this ordinance was adopted may be partitioned once if solely for the purpose of segregating one separate smaller parcel for an existing or proposed single-family house. The original parcel shall be exempt from the Lot Size Limitation for Partitions found in (C) above. The parcel to be created for the single-family house shall not contain sufficient lot area to allow further partitioning under the standards of the applicable existing zone including the use of administrative variances.

**Finding: Not Applicable.** The land is not residentially zoned.

**16.16.015 Preapplication Conference Required.**

*Before the city will accept an application for a partition, the applicant must attend a preapplication conference under Section 17.50.*

**Finding: Complies as Proposed.** A pre-application conference for this proposal took place on August 7<sup>th</sup>, 2018. The file number is PA 18-31.

**16.16.020 Minor Partition Application Submission Requirements.**

*A minor partition application shall include twelve copies of the proposed partition to the Community Development Director on a reproducible material, drawn at a minimum scale of one-inch equals one hundred feet with the following information:*

- A. A completed land use application form as provided by the planning division;*
- B. Legal descriptions of the parent parcel(s) and a preliminary plat map;*
- C. The name and address of the owner(s) and the representative, if any;*
- D. County tax assessment map number(s) of the land to be partitioned;*
- E. The map scale and north point;*
- F. Approximate courses and dimensions of all parts of the partition;*
- G. Around the periphery of the proposed minor partition, the boundary lines and names of adjacent minor partitions and subdivisions, streets and tract lines of adjacent parcels of property;*
- H. The location, width and names of all existing or platted streets, other public ways and easements within the proposed partition, and other important features, such as the general outline and location of permanent buildings, pedestrian/bicycle access ways, watercourses, power lines, telephone lines, railroad lines, gas lines, water lines, municipal boundaries and section lines;*
- I All areas designated as being within an overlay district*
- J. A connectivity analysis may be required as directed at the pre-application conference. If required, the partition connectivity analysis shall be prepared by an engineer licensed by the State of Oregon which describes the existing and future vehicular, bicycle and pedestrian connections between the proposed partition and existing or planned land uses on adjacent properties. The connectivity analysis shall include shadow plats of adjacent properties demonstrating how lot and street patterns within the proposed partition will extend to and/or from such adjacent properties and can be developed meeting the existing Oregon City Municipal Code design standards.*
- K. Archeological Monitoring Recommendation. For all projects that will involve ground disturbance, the applicant shall provide,*
  - 1. A letter or email from the Oregon State Historic Preservation Office Archaeological Division indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the Oregon State Historic Preservation Office and that the Oregon State Historic Preservation Office had not commented within 45 days of notification by the applicant; and*
  - 2. A letter or email from the applicable tribal cultural resource representative as designated by the Oregon Legislative Commission on Indian Services (CIS) and the Yakama Nation indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the applicable tribal cultural resource representative and that the applicable tribal cultural resource representative had not commented within 45 days of notification by the applicant.*

*If, after 45 days notice from the applicant, the Oregon State Historic Preservation Office or the applicable tribal cultural resource representative fails to provide comment, the city will not require the letter or email as part of the completeness review. For the purpose of this section, ground disturbance is defined as the movement of native soils.*

**Finding: Complies as Proposed.** The applicant submitted all required application materials and the application was. A description of the proposed development was sent to the Oregon State Historic Preservation Office (SHPO) as well as various tribes for review. Comments received have been provided as part of this application.

**16.16.025 Frontage Width Requirement.**

*For parcels of land created by a minor partition the parcels shall have a minimum of twenty feet of frontage on an existing public, county, state or federal road or street (unless as otherwise permitted in OCMC 16.16).*

**Finding: Complies as Proposed.** The lot configuration proposed specifies a width of approximately 50 feet for both Parcel 1 and Parcel 2.

**16.16.030 Flag Lots – R-10, R-8, R-6, and R-3.5.**

- A. *Flag lots may be permitted in Partitions only where the configuration, topography, or an existing dwelling unit is located on the property so that it would otherwise preclude the partitioning and development of the property.*
- B. *A joint accessway shall be provided unless the existing topography of the site or the dwelling unit is located on the property to prevent a joint accessway. A perpetual reciprocal access easement and maintenance agreement shall be recorded for the joint accessway, in a format acceptable to the city attorney.*
- C. *Access ways shall have a pavement width of at least sixteen feet to service one to two units or twenty feet to service three or more units. A fire access corridor of at least twenty feet shall be provided to all parcels with a minimum pavement width of sixteen feet to service two units or twenty feet to service three or more units. At least 6 inches of shoulder on each side of the fire access corridor shall be provided in order that construction work does not infringe on adjacent properties. A narrower pavement width may be approved by the Fire District and Planning Division. The approval may require that additional fire suppression devices be provided to assure an adequate level of fire and life safety. No vehicular obstruction, including trees, fences, landscaping or structures, shall be located within the fire access corridor.*
- D. *The pole must connect to a public street.*
- E. *The pole must be at least 8 feet wide for its entire length.*
- F. *The pole must be part of the flag lot and must be under the same ownership as the flag portion of the lot.*

**16.16.035 Pavement Requirements.**

*Accessways for lots created through the minor partitioning process shall satisfy the requirements of Section 16.16.040 and 16.16.050. If the proposed accessway exceeds one hundred fifty feet in length the accessway shall conform to Fire District standards and shall be paved to a minimum width of twenty feet unless an alternative is approved by the Planning Division and Fire District. If more than two residences are served, a turnaround for emergency vehicles shall be provided. The turnaround shall be approved by the City Engineer and Fire District. Improvements shall comply with Chapter 16.12, Minimum Improvements and Design Standards for Land Divisions.*

**Finding: Not Applicable.** No flag lots or accessways are proposed with this application.

**CHAPTER 16.12 - MINIMUM IMPROVEMENTS AND DESIGN STANDARDS FOR LAND DIVISIONS**<sup>[3]</sup>

**16.12.020 - Blocks—Generally.**

*The length, width and shape of blocks shall take into account the need for adequate building site size, convenient motor vehicle, pedestrian, bicycle and transit access, control of traffic circulation, and limitations imposed by topography and other natural features.*

**16.12.030 - Blocks—Width.**

*The width of blocks shall ordinarily be sufficient to allow for two tiers of lots with depths consistent with the type of land use proposed.*

**Finding: Complies as Proposed.** No new blocks are being created with this application. Once partitioned into two lots, the existing street frontages of Molalla Ave. and Myrtle St. will continue to serve the land. Rather than retaining the through lot that is currently configured, the project will convert the land area into two individual 5,000 square foot lots that have only one street frontage and a shared internal rear lot line. With no minimum lot area or setback requirement for development, these regularly-shaped rectangular lots are of an adequate size to facilitate future development, including new buildings. The depth of the lots proposed within the existing block are approximately 50 feet wide by 100 feet deep. However, the project proposes converting a parcel that is a single tier through lot into a two tier lot configuration that meets the intent of this requirement.

**16.12.040 - Building sites.**

*The size, width, shape and orientation of building sites shall be appropriate for the primary use of the land division, and shall be consistent with the residential lot size provisions of the zoning ordinance with the following exceptions:*

A. *Where property is zoned and planned for commercial or industrial use, the community development director may approve other widths in order to carry out the city's comprehensive plan. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.*

B. *Minimum lot sizes contained in [Title 17](#) are not affected by those provided herein.*

**Finding: Complies as Proposed.** The buildings sites proposed are appropriate in size, width, shape, and orientation for Mixed Use Corridor development.

**16.12.045 - Building sites—Minimum density.**

*All subdivision layouts shall achieve at least eighty percent of the maximum density of the base zone for the net developable area as defined in [Chapter 17.04](#).*

**Finding: Not Applicable.** The proposal is not a residential subdivision. The MUC-1 zone does not have a minimum density.

**16.12.050 – Lot size reduction**

*A subdivision in the R-10, R-8, R-6, R-5, or R-3.5 dwelling district may include lots that are up to twenty percent less than the required minimum lot area of the applicable zoning designation provided the lots within the entire subdivision on average meets the minimum site area requirement of the underlying zone. Any area within a powerline easement on a lot shall not count towards the lot area for that lot.*

*The average lot area is determined by first calculating the total site area devoted to dwelling units, subtracting the powerline easement areas, and dividing that figure by the proposed number of dwelling lots. Accessory dwelling units are not included in this determination nor are tracts created for non-dwelling unit purposes such as open space, stormwater tracts, or access ways. A lot that was created pursuant to this section may not be further divided unless the average lot size requirements are still met for the entire subdivision. When a lot abuts a public alley, an area equal to the length of the alley frontage along the lot times the width of the alley right-of-way measured from the alley centerline may be added to the area of the abutting lot in order to satisfy the lot area requirement for the abutting lot. It may also be used in calculating the average lot area.*

**Finding: Not Applicable.** The proposal is not a residential subdivision.

**16.12.055 - Building site—Through lots.**

*Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from major arterials or to overcome specific disadvantages of topography of existing development patterns. A reserve strip may be required. A planting screen restrictive covenant may be required to separate residential development from major arterial streets, adjacent nonresidential development, or other incompatible use, where practicable. Where practicable, alleys or shared driveways shall be used for access for lots that have frontage on a collector or minor arterial street, eliminating through lots.*

**Finding: Not Applicable.** No through lots are proposed.

**16.12.060 - Building site—Lot and parcel side lines.**

*The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve.*

**Finding: Complies as Proposed.** The proposed lot lines and parcels run at right angles to the street upon which they face.

**16.12.065 - Building site—Grading.**

*Grading of building sites shall conform to the State of Oregon Structural Specialty Code, Chapter 18, any approved grading plan and any approved residential lot grading plan in accordance with the requirements of [Chapter 15.48](#), [16.12](#) and the Public Works Stormwater and Grading Design Standards, and the erosion control requirements of [Chapter 17.47](#).*

**Finding: See findings from OCMC 15.48 of this report.**

**16.12.070 - Building site—Setbacks and building location.**

*This standard ensures that lots are configured in a way that development can be oriented toward streets to provide a safe, convenient and aesthetically pleasing environment for pedestrians and bicyclists. The objective is for lots located on a neighborhood collector, collector or minor arterial street locate the front yard setback on and design the most architecturally significant elevation of the primary structure to face the neighborhood collector, collector or minor arterial street.*

*A. The front setback of all lots located on a neighborhood collector, collector or minor arterial shall be orientated toward the neighborhood collector, collector or minor arterial street.*

*B. The most architecturally significant elevation of the house shall face the neighborhood collector, collector or minor arterial street.*

*C. On corner lots located on the corner of two local streets, the main façade of the dwelling may be oriented towards either street.*

*D. All lots proposed with a driveway and lot orientation on a collector or minor arterial shall combine driveways into one joint access per two or more lots unless the city engineer determines that:*

*1. No driveway access may be allowed since the driveway(s) would cause a significant traffic safety hazard; or*

*2. Allowing a single driveway access per lot will not cause a significant traffic safety hazard.*

*E. The community development director may approve an alternative design, consistent with the intent of this section, where the applicant can show that existing development patterns preclude the ability to practically meet this standard.*

**Finding: Complies as Proposed.** Development in the MUC-1 zone is governed by Chapter 17.62. Most of these standards are written for single family residential development. One driveway is proposed on Myrtle Street.

**16.12.075 - Building site—Division of lots.**

*Where a tract of land is to be divided into lots or parcels capable of redivision in accordance with this chapter, the community development director shall require an arrangement of lots, parcels and streets which facilitates future redivision. In such a case, building setback lines may be required in order to preserve future right-of-way or building sites.*

**Finding: Complies as Proposed.** The site is capable of redivision under this proposal because the base zone standard does not have a minimum requirement for setbacks, lot size, lot width or density. However, further dividing the land from 5,000 square foot lots to smaller parcels does not hold enough feasible development potential to warrant the need to reserve areas for future right-of-way or building sites. The most realistic potential redivision would be that of narrow lots which front the existing streets and have shared driveway access. The current lot configuration presents the best opportunity to achieve this in the future, should redevelopment occur that seeks further redivision.

**16.12.085 - Easements.**

*The following shall govern the location, improvement and layout of easements:*

*A. Utilities. Utility easements shall be required where necessary as determined by the city engineer. Insofar as practicable, easements shall be continuous and aligned from block-to-block within the land division and with adjoining subdivisions or partitions. Specific utility easements for water, sanitary or storm drainage shall be provided based on approved final engineering plans.*

**Finding: Complies with Condition.** The applicant shall provide a private utility easement to ensure the western lot created by the development may extend a sewer lateral to the existing sewer main within Molalla Avenue or provide evidence that the new lot can have gravity fed sewer service to the extension of a sewer main within Myrtle Street. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*16.12.085.B. Unusual Facilities. Easements for unusual facilities such as high voltage electric transmission lines, drainage channels and stormwater detention facilities shall be adequately sized for their intended purpose, including any necessary maintenance roads. These easements shall be shown to scale on the preliminary and final plats or maps. If the easement is for drainage channels, stormwater detention facilities or related purposes, the easement shall comply with the requirements of the Public Works Stormwater and Grading Design Standards.*

**Finding: Complies with Condition.** The applicant shall provide a 10-foot-wide public utility easement along all property lines fronting existing or proposed right-of-way.

**Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*C. Watercourses. Where a land division is traversed or bounded by a watercourse, drainageway, channel or stream, a stormwater easement or drainage right-of-way shall be provided which conforms substantially to the line of such watercourse, drainageway, channel or stream and is of a sufficient width to allow construction, maintenance and control for the purpose as required by the responsible agency. For those subdivisions or partitions which are bounded by a stream of established recreational value, setbacks or easements may be required to prevent impacts to the water resource or to accommodate pedestrian or bicycle paths.*

**Finding: Not Applicable.** The land division is not traversed by a watercourse.

*D. Access. When easements are used to provide vehicular access to lots within a land division, the construction standards, but not necessarily width standards, for the easement shall meet city specifications. The minimum width of the easement shall be twenty feet. The easements shall be improved and recorded by the applicant and inspected by the city engineer. Access easements may also provide for utility placement.*

**Finding: Complies with condition.** Vehicular access easements are required; however, this code provision is meant for residential partitions, and city construction standards are not needed for the type of vehicular cross over easements required for this development, in the MUC-1 zone. Twenty feet may not be required in this case; the width shall be determined by the future needs of the access. The specifications of any required easements shall be reviewed and approved by the City Engineer before easement recording occurs. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*E. Resource Protection. Easements or other protective measures may also be required as the community development director deems necessary to ensure compliance with applicable review criteria protecting any unusual significant natural feature or features of historic significance.*

**Finding: Not Applicable.** The land division is not traversed by a water feature.

#### **16.12.090 - Minimum improvements—Procedures.**

*In addition to other requirements, improvements installed by the applicant either as a requirement of these or other regulations, or at the applicant's option, shall conform to the requirements of this title and be designed to city specifications and standards as set out in the city's facility master plan and Public Works Stormwater and Grading Design Standards. The improvements shall be installed in accordance with the following procedure:*

*A. Improvement work shall not commence until construction plans have been reviewed and approved by the city engineer and to the extent that improvements are in county or state right-of-way, they shall be approved by the responsible authority. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the preliminary plat of a subdivision or partition. Expenses incurred thereby shall be borne by the applicant and paid for prior to final plan review.*

*B. Improvements shall be constructed under the inspection and approval of the city engineer. Expenses incurred thereby shall be borne by the applicant and paid prior to final approval. Where required by the city engineer or other city decision-maker, the applicant's project engineer also shall inspect construction.*

*C. Erosion control or resource protection facilities or measures are required to be installed in accordance with the requirements of [Chapter 17.49](#) and the Public Works Erosion and Sediment Control Standards. Underground utilities, waterlines, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed beyond the public utility easement behind to the lot lines.*

*D. As-built construction plans and digital copies of as-built drawings shall be filed with the city engineer upon completion of the improvements.*

*E. The city engineer may regulate the hours of construction and access routes for construction equipment to minimize impacts on adjoining residences or neighborhoods.*

**Finding: Complies as conditioned.** The applicant shall provide civil engineering plans stamped and signed by a professional engineer in the State of Oregon for review and approval by Oregon City Public Works.

The applicant shall schedule a pre-design meeting with Public Works Development Services staff prior to initial submittal of Civil Engineering plans.

The development's contractor(s) and engineer(s) shall attend a pre-construction meeting with Oregon City staff prior to beginning construction work associated with the project.

As-built construction plans and digital copies of as-built drawings shall be filed with the city engineer within 90 days of completion of the improvements.

**Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

**16.12.095 - Minimum improvements—Public facilities and services.**

*The following minimum improvements shall be required of all applicants for a land division under [Title 16](#), unless the decision-maker determines that any such improvement is not proportional to the impact imposed on the city's public systems and facilities:*

*A. Transportation System. Applicants and all subsequent lot owners shall be responsible for improving the city's planned level of service on all public streets, including alleys within the land division and those portions of public streets adjacent to but only partially within the land division. All applicants shall execute a binding agreement to not remonstrate against the formation of a local improvement district for street improvements that benefit the applicant's property. Applicants are responsible for designing and providing adequate vehicular, bicycle and pedestrian access to their developments and for accommodating future access to neighboring undeveloped properties that are suitably zoned for future development. Storm drainage facilities shall be installed and connected to off-site natural or man-made drainageways. Upon completion of the street improvement survey, the applicant shall reestablish and protect monuments of the type required by ORS 92.060 in monument boxes with covers at every public street intersection and all points or curvature and points of tangency of their center line, and at such other points as directed by the city engineer.*

**Finding: Complies with Condition.** There are no monuments within the public street intersection associated with this development. The applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the property and assessing the cost to benefited properties pursuant to the city's capital improvement regulations in effect at the time of such improvement. The applicant shall pay all fees associated with processing and recording the Non-Remonstrance Agreement. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*B. Stormwater Drainage System. Applicants shall design and install drainage facilities within land divisions and shall connect the development's drainage system to the appropriate downstream storm drainage system as a minimum requirement for providing services to the applicant's development. The applicant shall obtain county or state approval when appropriate. All applicants shall execute a binding agreement to not remonstrate against the formation of a local improvement district for stormwater drainage improvements that benefit the applicant's property. Applicants are responsible for extending the appropriate storm drainage system to the development site and for providing for the connection of upgradient properties to that system. The applicant shall design the drainage facilities in accordance with city drainage master plan requirements, [Chapter 13.12](#) and the Public Works Stormwater and Grading Design Standards.*

**Finding: Complies with Condition. Refer to section 13.12 of this report for a discussion of storm water.**

*C. Sanitary Sewer System. The applicant shall design and install a sanitary sewer system to serve all lots or parcels within a land division in accordance with the city's sanitary sewer design standards, and shall connect those lots or parcels to the city's sanitary sewer system, except where connection is required to the county sanitary sewer system as approved by the county. All applicants shall execute a binding agreement to not remonstrate against the formation of a local improvement district for sanitary sewer improvements that benefit the applicant's property.*

*Applicants are responsible for extending the city's sanitary sewer system to the development site and through the applicant's property to allow for the future connection of neighboring undeveloped properties that are suitably zoned for future development. The applicant shall obtain all required permits and approvals from all affected jurisdictions prior to final approval and prior to commencement of construction. Design shall be approved by the city engineer before construction begins.*

**Finding: Complies with Condition.** The applicant shall demonstrate how the western lot created by the development can be provided sanitary sewer service from a viable source. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*16.12.095.D. Water System. The applicant shall design and install a water system to serve all lots or parcels within a land division in accordance with the city public works water system design standards, and shall connect those lots or parcels to the city's water system. All applicants shall execute a binding agreement to not remonstrate against the formation of a local improvement district for water improvements that benefit the applicant's property. Applicants are responsible for extending the city's water system to the development site and through the applicant's property to allow for the future connection of neighboring undeveloped properties that are suitably zoned for future development.*

**Finding: Complies as proposed.** The proposed development does not require a new water service. The existing water system allows for the future connection to all lots created by the development without encumbrances on adjacent properties.

*16.12.095.E. Sidewalks. The applicant shall provide for sidewalks on both sides of all public streets, on any private street if so required by the decision-maker, and in any special pedestrian way within the land division. Exceptions to this requirement may be allowed in order to accommodate topography, trees or some similar site constraint. In the case of major or minor arterials, the decision-maker may approve a land division without sidewalks where sidewalks are found to be dangerous or otherwise impractical to construct or are not reasonably related to the applicant's development. The decision-maker may require the applicant to provide sidewalks concurrent with the issuance of the initial building permit within the area that is the subject of the land division application. Applicants for partitions may be allowed to meet this requirement by executing a binding agreement to not remonstrate against the formation of a local improvement district for sidewalk improvements that benefit the applicant's property.*

**Finding: Complies with Condition.** Please refer to section 12.040.180 B for a discussion of sidewalks.

*16.12.095.F. Bicycle Routes. If appropriate to the extension of a system of bicycle routes, existing or planned, the decision-maker may require the installation of separate bicycle lanes within streets and separate bicycle paths.*

**Finding: Complies as Proposed.** Please refer to the analysis in chapter 12.04 of this report.

*16.12.095.G. Street Name Signs and Traffic Control Devices. The applicant shall install street signs and traffic control devices as directed by the city engineer. Street name signs and traffic control devices shall be in conformance with all applicable city regulations and standards.*

**Finding: Not applicable.** The street has existing signs and the city finds no need for additional traffic control devices.

*16.12.095.H. Street Lights. The applicant shall install street lights which shall be served from an underground source of supply. Street lights shall be in conformance with all city regulations.*

**Finding: Complies as proposed.** Given the small scope of the development and the small size of the property frontage, staff has determined that it was not be proportional to require street lighting along the frontage of the development.

*16.12.095.I. Street Trees.*

**Finding:** Please refer to the analysis in section 12.08 of this report.

16.12.095.J. *Bench Marks. At least one bench mark shall be located within the subdivision boundaries using datum plane specified by the city engineer.*

**Finding: Not applicable.** The development is not a subdivision.

16.12.095.K. *Other. The applicant shall make all necessary arrangements with utility companies or other affected parties for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting and cable television, shall be placed underground.*

**Finding: Complies as conditioned.** Though the subject site has overhead utility lines along the frontage of Molalla Avenue, relocation of all existing overhead utilities underground is not required because:

- The overhead utilities cannot be placed underground without impact to and involvement from adjacent properties.
- The City is mindful of assuring the public improvements are roughly proportional to the impact of the proposed development. As the applicant has proposed a 2-lot Minor Partition, the cost to underground all the existing overhead utilities would not be proportional to the proposed development.
- To facilitate relocation existing overhead utilities by future development along Molalla Avenue, the existing overhead utility line(s) serving the existing dwelling shall be underground as it does not impact or require involvement from adjacent properties.

**Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.095.L. *Oversizing of Facilities. All facilities and improvements shall be designed to city standards as set out in the city's facility master plan, public works design standards, or other city ordinances or regulations. Compliance with facility design standards shall be addressed during final engineering. The city may require oversizing of facilities to meet standards in the city's facility master plan or to allow for orderly and efficient development. Where oversizing is required, the applicant may request reimbursement from the city for oversizing based on the city's reimbursement policy and funds available, or provide for recovery of costs from intervening properties as they develop.*

**Finding: Not applicable.** Oversizing of facilities is not required for this development.

16.12.095.M. *Erosion Control Plan—Mitigation. The applicant shall be responsible for complying with all applicable provisions of Chapter 17.47 with regard to erosion control.*

**Finding:** Please refer to the analysis in section 17.47 of this report.

16.12.100 *Same—Road standards and requirements.*

*A. The creation of a public street and the resultant separate land parcels shall be in conformance with requirements for subdivisions or partitions and the applicable street design standards of Chapter 12.04. However, the decision-maker may approve the creation of a public street to be established by deed without full compliance with the regulations applicable to subdivisions or partitions where any of the following conditions exist:*

*1. The establishment of the public street is initiated by the city commission and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street;*

*2. The tract in which the street is to be dedicated is within an isolated ownership either not over one acre or of such size and characteristics as to make it impossible to develop building sites for more than three dwelling units.*

*B. For any public street created pursuant to subsection A of this section, a copy of a preliminary plan and the proposed deed shall be submitted to the community development director and city engineer at least ten days prior to any public hearing scheduled for the matter. The plan, deed and any additional information the applicant may submit shall be reviewed by the decision-maker and, if not in conflict with the standards of Title 16 and Title 17, may be approved with appropriate conditions.*

**Finding:** Please refer to the findings in chapter 12.04 within this report.

*16.12.105 Same—Timing requirements.*

*A. Prior to applying for final plat approval, the applicant shall either complete construction of all public improvements required as part of the preliminary plat approval or guarantee the construction of those improvements. Whichever option the applicant elects shall be in accordance with this section.*

*B. Construction. The applicant shall construct the public improvements according to approved final engineering plans and all applicable requirements of this Code, and under the supervision of the city engineer. Under this option, the improvement must be complete and accepted by the city engineer prior to final plat approval.*

*C. Financial Guarantee. The applicant shall provide the city with a financial guarantee in a form acceptable to the city attorney and equal to one hundred ten percent of the cost of constructing the public improvements in accordance with Oregon City Municipal Code Chapter 17.50. Possible forms of guarantee include an irrevocable or standby letter of credit, guaranteed construction loan set-aside, reserve account, or performance guarantee, but the form of guarantee shall be specified by the city engineer and, prior to execution and acceptance by the city, must be reviewed and approved by the city attorney. The amount of the guarantee shall be based upon approved final engineering plans, equal to at least one hundred ten percent of the estimated cost of construction, and shall be supported by a verified engineering estimate and approved by the city engineer.*

**Finding: Please see findings from Section 17.50.140 of this report.**

*16.12.110 Minimum improvements—Financial guarantee.*

*When conditions of permit approval require a permittee to construct certain improvements, the city may, in its discretion, allow the permittee to submit a performance guarantee in lieu of actual construction of the improvement. Performance guarantees shall be governed by this section.*

*A. Form of Guarantee. Performance guarantees shall be in a form approved by the city attorney. Approvable methods of performance guarantee include irrevocable standby letters of credit to the benefit of the city issued by a recognized lending institution, certified checks, dedicated bank accounts or allocations of construction loans held in reserve by the lending institution for the benefit of the city. The form of guarantee shall be specified by the city engineer and, prior to execution and acceptance by the city shall be reviewed and approved by the city attorney. The guarantee shall be filed with the city engineer.*

*B. Timing of Guarantee. A permittee shall be required to provide a performance guarantee as follows:*

*1. After Final Approved Design by the City: A permittee may request the option of submitting a performance guarantee when prepared for temporary/final occupancy. The guarantee shall be one hundred twenty percent of the estimated cost of constructing the remaining public improvements as submitted by the permittee's engineer. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the city engineer.*

*2. Before Complete Design Approval and Established Engineered Cost Estimate: A permittee may request the option of submitting a performance guarantee before public improvements are designed and completed. The guarantee shall be one hundred fifty percent of the estimated cost of constructing the public improvements as submitted by the permittee's engineer and approved by the city engineer. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the city engineer. This scenario applies for a fee-in-lieu situation to ensure adequate funds for the future work involved in design, bid, contracting, and construction management and contract closeout. In this case, the fee-in-lieu must be submitted as cash, certified check, or other negotiable instrument as approved to form by the city attorney.*

*C. Duration of the Guarantee. The guarantee shall remain in effect until the improvement is actually constructed and accepted by the city. Once the city has inspected and accepted the improvement, the city shall release the guarantee to the permittee. If the improvement is not completed to the city's satisfaction within the time limits specified in the permit approval, the city engineer may, at their discretion, draw upon the guarantee and use the proceeds to construct or complete construction of the improvement and for any related administrative and legal costs incurred by the city in completing the construction, including any costs incurred in attempting to have the permittee complete the improvement. Once constructed and approved by the city, any remaining funds shall be refunded to the permittee. The city shall not allow a permittee to defer construction of improvements by using a performance guarantee, unless the permittee agrees to construct those improvements upon written notification by the city, or at some other mutually agreed-to time. If the permittee fails to commence construction of the required improvements within six months of being instructed to do so, the city may, without further notice, undertake the construction of the improvements and draw upon the permittee's performance guarantee to pay those costs.*

**Finding: Please see findings from Section 17.50.140 of this report.**

## **CHAPTER 12.04 - STREETS SIDEWALKS AND PUBLIC PLACES**

### *12.04.003 Applicability*

*A. Compliance with this chapter is required for all Land Divisions, Site Plan and Design Review, Master Plan, Detailed Development Plan and Conditional Use applications and all public improvements.*

*B. Compliance with this chapter is also required for new construction or additions which exceed fifty percent of the existing square footage, of all single and two-family dwellings. All applicable single and two-family dwellings shall provide any necessary dedications, easements or agreements as identified in the transportation system plan and this chapter. In addition, the frontage of the site shall comply with the following prioritized standards identified in this chapter:*

- 1. Improve street pavement, construct curbs, gutters, sidewalks and planter strips; and*
- 2. Plant street trees.*

*The cost of compliance with the standards identified in 12.04.003.B.1 and 12.04.003.B.2 is limited to ten percent of the total construction costs. The value of the alterations and improvements as determined by the community development director is based on the entire project and not individual building permits. It is the responsibility of the applicant to submit to the community development director the value of the required improvements. Additional costs may be required to comply with other applicable requirements associated with the proposal such as access or landscaping requirements.*

**Finding: Applicable.** The applicant applied for a subdivision, this chapter is applicable.

### *12.04.005 Jurisdiction and management of the public rights-of-way*

*A. The city has jurisdiction and exercises regulatory management over all public rights-of-way within the city under authority of the City Charter and state law by issuing separate public works right-of-way permits or permits as part of issued public infrastructure construction plans. No work in the public right-of-way shall be done without the proper permit. Some public rights-of-way within the city are regulated by the State of Oregon Department of Transportation (ODOT) or Clackamas County and as such, any work in these streets shall conform to their respective permitting requirements.*

*B. Public rights-of-way include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and air space over these areas.*

*C. The city has jurisdiction and exercises regulatory management over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory management of each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.*

*D. No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use rights-of-way by franchises and permits.*

*E. The exercise of jurisdiction and regulatory management of a public right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.*

**Finding: Complies as proposed.** By submission of the application, the applicant has acknowledged the City's jurisdiction and management of the public right-of-way.

### *12.04.007 Modifications.*

*The review body may consider modification of this standard resulting from constitutional limitations restricting the City's ability to require the dedication of property or for any other reason, based upon the criteria listed below and other criteria identified in the standard to be modified. All modifications shall be processed through a Type II Land Use application and may require additional evidence from a transportation engineer or others to verify compliance. Compliance with the following criteria is required:*

- A. The modification meets the intent of the standard;*
- B. The modification provides safe and efficient movement of pedestrians, motor vehicles, bicyclists and freight;*
- C. The modification is consistent with an adopted plan; and*
- D. The modification is complementary with a surrounding street design; or, in the alternative,*

- E. *If a modification is requested for constitutional reasons, the applicant shall demonstrate the constitutional provision or provisions to be avoided by the modification and propose a modification that complies with the state or federal constitution. The City shall be under no obligation to grant a modification in excess of that which is necessary to meet its constitutional obligations.*

**Finding: Not applicable.** The applicant has not requested any modifications.

*12.04.010 Construction specifications—Improved streets.*

*All sidewalks hereafter constructed in the city on improved streets shall be constructed to city standards and widths required in the Oregon City Transportation System Plan. The curb shall be constructed at the same time as the construction of the sidewalk and shall be located as provided in the ordinance authorizing the improvement of said street next proceeding unless otherwise ordered by the city commission. Both sidewalks and curbs are to be constructed according to plans and specifications provided by the city engineer.*

**Finding: Complies with Condition.** See section 12.040.180 B for findings.

*12.04.020 Construction specifications—Unimproved streets.*

*Sidewalks constructed on unimproved streets shall be constructed of concrete according to lines and grades established by the city engineer and approved by the city commission. On unimproved streets curbs do not have to be constructed at the same time as the sidewalk.*

**Finding: Not Applicable.** The applicant has not proposed to construct any infrastructure within an unimproved street.

*12.04.025 - Street design—Driveway Curb Cuts.*

*12.04.025.A. One driveway shall be allowed per frontage. In no case shall more than two driveways be allowed on any single or two-family residential property with multiple frontages.*

*12.04.025.B. With the exception of the limitations identified in 12.04.025.C, all driveway curb cuts shall be limited to the following dimensions.*

<i>Property Use</i>	<i>Minimum Driveway Width at sidewalk or property line</i>	<i>Maximum Driveway Width at sidewalk or property line</i>
<i>Single or Two-Family Dwelling with one Car Garage/Parking Space</i>	<i>10 feet</i>	<i>12 feet</i>
<i>Single or Two-Family Dwelling with two Car Garage/Parking Space</i>	<i>12 feet</i>	<i>24 feet</i>
<i>Single or Two-Family Dwelling with three or more Car Garages/Parking Space</i>	<i>18 feet</i>	<i>30 feet</i>
<i>Non Residential or Multi-Family Residential Driveway Access</i>	<i>15 feet</i>	<i>40 feet</i>

*The driveway width abutting the street pavement may be extended 3 feet on either side of the driveway to accommodate turn movements. Driveways may be widened onsite in locations other than where the driveway meets sidewalk or property line (for example between the property line and the entrance to a garage).*

*12.04.025.C. The decision maker shall be authorized through a Type II process, unless another procedure applicable to the proposal applies, to minimize the number and size of curb cuts (including driveways) as far as practicable for any of the following purposes:*

- 1. To provide adequate space for on-street parking;*
- 2. To facilitate street tree planting requirements;*
- 3. To assure pedestrian and vehicular safety by limiting vehicular access points; and*
- 4. To assure that adequate sight distance requirements are met.*
  - a. Where the decision maker determines any of these situations exist or may occur due to the approval of a proposed development for non-residential uses or attached or multi-family housing, a shared driveway shall be required and limited to twenty-four feet in width adjacent to the sidewalk or property line and may extend to a maximum of thirty feet abutting the street pavement to facilitate turning movements.*
  - b. Where the decision maker determines any of these situations exist or may occur due to approval of a proposed development for detached housing within the “R-5” Single –Family Dwelling District or “R-3.5” Dwelling District, driveway curb cuts shall be limited to twelve feet in width adjacent to the*

sidewalk or property line and may extend to a maximum of eighteen feet abutting the street pavement to facilitate turning movements.

12.04.025.D. For all driveways, the following standards apply.

1. Each new or redeveloped curb cut shall have an approved concrete approach or asphalted street connection where there is no concrete curb and a minimum hard surface for at least ten feet and preferably twenty feet back into the lot as measured from the current edge of street pavement to provide for controlling gravel tracking onto the public street. The hard surface may be concrete, asphalt, or other surface approved by the city engineer.
2. Driving vehicles, trailers, boats, or other wheeled objects across a sidewalk or roadside planter strip at a location other than an approved permanent or city-approved temporary driveway approach is prohibited. Damages caused by such action shall be corrected by the adjoining property owner.
3. Placing soil, gravel, wood, or other material in the gutter or space next to the curb of a public street with the intention of using it as a permanent or temporary driveway is prohibited. Damages caused by such action shall be corrected by the adjoining property owner.
4. Any driveway built within public street or alley right-of-way shall be built and permitted per city requirements as approved by the city engineer.

12.04.025.E. Exceptions. The public works director reserves the right to waive this standard, if it is determined through a Type II decision including written findings, that it is in the best interest of the public to do so.

**Finding: Complies as proposed.** The applicant has proposed a driveway of 22 feet in width, which is between 15 to 40 feet as required for Non-Residential driveways.

12.04.030 Maintenance and repair.

The owner of land abutting the street where a sidewalk has been constructed shall be responsible for maintaining said sidewalk and abutting curb, if any, in good repair.

**Finding: Complies as Proposed.** The applicant is responsible for maintaining said sidewalk and abutting curb.

12.04.031 Liability for sidewalk injuries.

A. The owner or occupant of real property responsible for maintaining the adjacent sidewalk shall be liable to any person injured because of negligence of such owner or occupant in failing to maintain the sidewalk in good condition.

B. If the city is required to pay damages for an injury to persons or property caused by the failure of a person to perform the duty that this ordinance imposes, the person shall compensate the city for the amount of the damages paid. The city may maintain an action in a court of competent jurisdiction to enforce this section.

**Finding: Not Applicable.** This is not a criterion for this development.

12.04.032 Required sidewalk repair.

A. When the public works director determines that repair of a sidewalk is necessary he or she shall issue a notice to the owner of property adjacent to the sidewalk.

B. The notice shall require the owner of the property adjacent to the defective sidewalk to complete the repair of the sidewalk within ninety days after the service of notice. The notice shall also state that if the repair is not made by the owner, the city may do the work and the cost of the work shall be assessed against the property adjacent to the sidewalk.

C. The public works director shall cause a copy of the notice to be served personally upon the owner of the property adjacent to the defective sidewalk, or the notice may be served by registered or certified mail, return receipt requested. If after diligent search the owner is not discovered, the public works director shall cause a copy of the notice to be posted in a conspicuous place on the property, and such posting shall have the same effect as service of notice by mail or by personal service upon the owner of the property.

D. The person serving the notice shall file with the city recorder a statement stating the time, place and manner of service or notice.

**Finding: Not Applicable.** The applicant has not proposed and is not required to repair a sidewalk.

12.04.033 City may do work.

If repair of the sidewalk is not completed within ninety days after the service of notice, the public works director shall carry out the needed work on the sidewalk. Upon completion of the work, the public works director shall

submit an itemized statement of the cost of the work to the finance director. The city may, at its discretion, construct, repair or maintain sidewalks deemed to be in disrepair by the public works director for the health, safety and general welfare of the residents of the city.

**Finding: Not Applicable.** This is not a criterion for this development because no sidewalk repair is required.

**12.04.034 Assessment of costs.**

Upon receipt of the report, the finance director shall assess the cost of the sidewalk work against the property adjacent to the sidewalk. The assessment shall be a lien against the property and may be collected in the same manner as is provided for in the collection of street improvement assessment.

**Finding: Not Applicable.** This is not a criterion for this development because no sidewalk repair is required.

**12.04.040 Streets--Enforcement.**

Any person whose duty it is to maintain and repair any sidewalk, as provided by this chapter, and who fails to do so shall be subject to the enforcement procedures of Chapters 1.16, 1.20 and 1.24. Failure to comply with the provisions of this chapter shall be deemed a nuisance. Violation of any provision of this chapter is subject to the code enforcement procedures of Chapters 1.16, 1.20 and 1.24.

**Finding: Not Applicable.** This is not a criterion for this development.

**12.04.045 Street design – Constrained local streets and/or rights-of-way**

Any accessway with a pavement width of less than thirty-two feet shall require the approval of the city engineer, community development director and fire chief and shall meet minimum life safety requirements, which may include fire suppression devices as determined by the fire marshal to assure an adequate level of fire and life safety. The standard width for constrained streets is twenty feet of paving with no on-street parking and twenty-eight feet with on-street parking on one side only. Constrained local streets shall maintain a twenty-foot wide unobstructed accessway. Constrained local streets and/or right-of-way shall comply with necessary slope easements, sidewalk easements and altered curve radius, as approved by the city engineer and community development director.

Table 12.04.045		
STREET DESIGN STANDARDS FOR LOCAL CONSTRAINED STREETS		
	Minimum	Required
Type of Street	Right-of-way	Pavement Width
Constrained local street	20 to 40	20 to less than 32 feet

**Finding: Not Applicable.** The applicant has not proposed a constrained street.

**12.04.050 Retaining walls--Required.**

Every owner of a lot within the city, abutting upon an improved street, where the surface of the lot or tract of land is above the surface of the improved street and where the soil or earth from the lot, or tract of land is liable to, or does slide or fall into the street or upon the sidewalk, or both, shall build a retaining wall, the outer side of which shall be on the line separating the lot, or tract of land from the improved street, and the wall shall be so constructed as to prevent the soil or earth from the lot or tract of land from falling or sliding into the street or upon the sidewalk, or both, and the owner of any such property shall keep the wall in good repair.

**Finding: Not Applicable.** Applicant is not proposing construction of a retaining wall.

**12.04.060 Retaining walls--Maintenance.**

When a retaining wall is necessary to keep the earth from falling or sliding onto the sidewalk or into a public street and the property owner or person in charge of that property fails or refuses to build such a wall, such shall be deemed a nuisance. The violation of any provision of this chapter is subject to the code enforcement procedures of Chapters 1.16, 1.20 and 1.24.

**Finding: Not Applicable.** Applicant is not proposing construction of a retaining wall.

**12.04.070 Removal of sliding dirt.**

It shall be the duty of the owner of any property as mentioned in Section 12.04.050, and in case the owner is a nonresident, then the agent or other person in charge of the same, to remove from the street or sidewalk or both as

*the case may be, any and all earth or dirt falling on or sliding into or upon the same from the property, and to build and maintain in order at all times, the retaining wall as herein required; and upon the failure, neglect or refusal of the land owner, the agent or person in charge of the same to clean away such earth or dirt, falling or sliding from the property into the street or upon the sidewalk, or both, or to build the retaining wall, shall be deemed guilty of a misdemeanor.*

**Finding: Not Applicable.** The applicant has not proposed and is not required to remove sliding dirt with this application.

*12.04.080 Excavations--Permit required.*

*It shall be unlawful for any person to dig up, break, excavate, disturb, dig under or undermine any public street or alley, or any part thereof or any macadam, gravel, or other street pavement or improvement without first applying for and obtaining from the engineer a written permit so to do.*

**Finding: Not applicable.** Applicant will be permitted for excavations through Public Works construction plan review.

*12.04.090 Excavations--Permit restrictions.*

*The permit shall designate the portion of the street to be so taken up or disturbed, together with the purpose for making the excavation, the number of days in which the work shall be done, and the trench or excavation to be refilled and such other restrictions as may be deemed of public necessity or benefit.*

**Finding: Not applicable.** Applicant will be permitted for excavations through Public Works construction plan review.

*12.04.095 - Street Design—Curb Cuts.*

*To assure public safety, reduce traffic hazards and promote the welfare of pedestrians, bicyclists and residents of the subject area, such as a cul-de-sac or dead-end street, the decision maker shall be authorized to minimize the number and size of curb cuts (including driveways) as far as practicable where any of the following conditions are necessary:*

- A. To provide adequate space for on-street parking;*
- B. To facilitate street tree planting requirements;*
- C. To assure pedestrian and vehicular safety by limiting vehicular access points; and*
- D. To assure that adequate sight distance requirements are met.*

*Where the decision maker determines any of these situations exist or may occur due to approval of a proposed development, single residential driveway curb cuts shall be limited to twelve feet in width adjacent to the sidewalk and property line and may extend to a maximum of eighteen feet abutting the street pavement to facilitate turning movements. Shared residential driveways shall be limited to twenty-four feet in width adjacent to the sidewalk and property line and may extend to a maximum of thirty feet abutting the street pavement to facilitate turning movements. Non-residential development driveway curb cuts in these situations shall be limited to the minimum required widths based on vehicle turning radii based on a professional engineer's design submittal and as approved by the decision maker.*

**Finding: Not applicable.** The decision maker has not exercised the authority to minimize the number and size of curb cuts beyond what has been proposed by the applicant.

*12.04.100 Excavations – Restoration of Pavement*

*Whenever any excavation shall have been made in any pavement or other street improvement on any street or alley in the city for any purpose whatsoever under the permit granted by the engineer, it shall be the duty of the person making the excavation to put the street or alley in as good condition as it was before it was so broken, dug up or disturbed, and shall remove all surplus dirt, rubbish, or other material from the street or alley.*

**Finding: Complies as conditioned.** The applicant has proposed work in the public right-of-way that will require pavement restoration. All pavement cut and restoration shall be performed in accordance with the City of Oregon City Pavement Cut Standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*12.04.110 Excavations--Nuisance--Penalty.*

*Any excavation in violation of this chapter shall be deemed a nuisance. Violation of any provision of this chapter is subject to the code enforcement procedures of Chapters 1.16, 1.20 and 1.24.*

**Finding: Not applicable.** This is not a criterion for this development.

*12.04.120 Obstructions – Permit Required*

**Finding: Not applicable.** This is not a criterion for this development.

*12.04.130 Obstructions--Sidewalk sales.*

*A. It is unlawful for any person to use the public sidewalks of the city for the purpose of packing, unpacking or storage of goods or merchandise or for the display of goods or merchandise for sale. It is permissible to use the public sidewalks for the process of expeditiously loading and unloading goods and merchandise.*

*B. The city commission may, in its discretion, designate certain areas of the city to permit the display and sale of goods or merchandise on the public sidewalks under such conditions as may be provided.*

**Finding: Not applicable.** This is not a criterion for this development.

*12.04.140 Obstructions--Nuisance--Penalty.*

*Any act or omission in violation of this chapter shall be deemed a nuisance. Violation of any provision of this chapter is subject to the code enforcement procedures of Chapters 1.16, 1.20 and 1.24.*

**Finding: Not applicable.** This is not a criterion for this development.

*12.04.150 - Street and alley vacations—Cost.*

*At the time of filing a petition for vacation of a street, alley or any part thereof, a fee as established by city commission resolution shall be paid to the city.*

**Finding: Not Applicable.** The applicant has not proposed a street or alley vacation with this application.

*12.04.160 Street vacations--Restrictions.*

*The commission, upon hearing such petition, may grant the same in whole or in part, or may deny the same in whole or in part, or may grant the same with such reservations as would appear to be for the public interest, including reservations pertaining to the maintenance and use of underground public utilities in the portion vacated.*

**Finding: Not Applicable.** The applicant has not proposed a street or alley vacation with this application.

*12.04.170 - Street design—Purpose and general provisions.*

*All development shall be in conformance with the policies and design standards established by this Chapter and with applicable standards in the city's public facility master plan and city design standards and specifications. In reviewing applications for development, the city engineer shall take into consideration any approved development and the remaining development potential of adjacent properties. All street, water, sanitary sewer, storm drainage and utility plans associated with any development must be reviewed and approved by the city engineer prior to construction. All streets, driveways or storm drainage connections to another jurisdiction's facility or right-of-way must be reviewed by the appropriate jurisdiction as a condition of the preliminary plat and when required by law or intergovernmental agreement shall be approved by the appropriate jurisdiction.*

**Finding: Complies as Conditioned. Error! Reference source not found. Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*12.04.175 Street Design--Generally.*

*The location, width and grade of street shall be considered in relation to: existing and planned streets, topographical conditions, public convenience and safety for all modes of travel, existing and identified future transit routes and pedestrian/bicycle accessways, and the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried considering the terrain. To the extent possible, proposed streets shall connect to all existing or approved stub streets that abut the development site. The arrangement of streets shall either:*

- A. Provide for the continuation or appropriate projection of existing principal streets in the surrounding area and on adjacent parcels or conform to a plan for the area approved or adopted by the city to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical;
- B. Where necessary to give access to or permit a satisfactory future development of adjoining land, streets shall be extended to the boundary of the development and the resulting dead-end street (stub) may be approved with a temporary turnaround as approved by the city engineer. Notification that the street is planned for future extension shall be posted on the stub street until the street is extended and shall inform the public that the dead-end street may be extended in the future. Access control in accordance with section 12.04 shall be required to preserve the objectives of street extensions.

**Finding: Complies as proposed.** The existing street location, widths, and grades of the proposed street network provide connectivity for future development of adjacent properties, a convenient street system, and for the safety of all modes of travel, including pedestrian and bicycle to, from, and through the subject site. The applicant has not proposed changes to existing street design-generally.

**12.04.180 Street Design.**

All development regulated by this Chapter shall provide street improvements in compliance with the standards in Figure 12.04.180 depending on the street classification set forth in the Transportation System Plan and the Comprehensive Plan designation of the adjacent property, unless an alternative plan has been adopted. The standards provided below are maximum design standards and may be reduced with an alternative street design which may be approved based on the modification criteria in 12.04.007. The steps for reducing the maximum design below are found in the Transportation System Plan.

Table 12.04.180 Street Design

To read the table below, select the road classification as identified in the Transportation System Plan and the Comprehensive Plan designation of the adjacent properties to find the maximum design standards for the road cross section. If the Comprehensive Plan designation on either side of the street differs, the wider right-of-way standard shall apply.

Road Classification	Comprehensive Plan Designation	Right-of-Way Width	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
Major Arterial	Mixed Use, Commercial or Public/Quasi Public	116 ft.	94 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft.x5 ft. tree wells		6 ft.	8 ft.	(5) 12 ft. Lanes	6 ft.
	Industrial	120 ft.	88 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	N/A	(5) 14 ft. Lanes	6 ft.
	Residential	126 ft.	94 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	8 ft.	(5) 12 ft. Lanes	6 ft.

Road Classification	Comprehensive Plan Designation	Right-of-Way Width	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
Minor Arterial	Mixed Use, Commercial or Public/Quasi Public	116 ft.	94 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft.x5 ft. tree wells		6 ft.	8 ft.	(5) 12 ft. Lanes	6 ft.
	Industrial	118 ft.	86 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	7 ft.	(5) 12 ft. Lanes	N/A
	Residential	100 ft.	68 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	7 ft.	(3) 12 ft. Lanes	6 ft.

Road Classification	Comprehensive Plan	Right-of-Way	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
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<i>n</i>	<i>Designation</i>	<i>Width</i>		<i>s</i>						
<b>Collector</b>	<i>Mixed Use, Commercial or Public/Quasi Public</i>	86 ft.	64 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft.x5 ft. tree wells		6 ft.	8 ft.	(3) 12 ft. Lanes	N/A
	<i>Industrial</i>	88 ft.	62 ft.	0.5 ft.	5 ft.	7.5 ft.	6 ft.	7 ft.	(3) 12 ft. Lanes	N/A
	<i>Residential</i>	85 ft.	59 ft.	0.5 ft.	5 ft.	7.5 ft.	6 ft.	7 ft.	(3) 11 ft. Lanes	N/A

<i>Road Classification</i>	<i>Comprehensive Plan Designation</i>	<i>Right-of-Way Width</i>	<i>Pavement Width</i>	<i>Public Access</i>	<i>Sidewalk</i>	<i>Landscape Strip</i>	<i>Bike Lane</i>	<i>Street Parking</i>	<i>Travel Lanes</i>	<i>Median</i>
<b>Local</b>	<i>Mixed Use, Commercial or Public/Quasi Public</i>	62 ft.	40 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft.x5 ft. tree wells		N/A	8 ft.	(2) 12 ft. Lanes	N/A
	<i>Industrial</i>	60 ft.	38 ft.	0.5 ft.	5 ft.	5.5 ft.	(2) 19 ft. Shared Space		N/A	
	<i>Residential</i>	54 ft.	32 ft.	0.5 ft.	5 ft.	5.5 ft.	(2) 16 ft. Shared Space		N/A	

1. Pavement width includes, bike lane, street parking, travel lanes and median.
2. Public access, sidewalks, landscape strips, bike lanes and on-street parking are required on both sides of the street in all designations. The right-of-way width and pavement widths identified above include the total street section.
3. A 0.5' foot curb is included in landscape strip or sidewalk width.
4. Travel lanes may be through lanes or turn lanes.
5. The 0.5' foot public access provides access to adjacent public improvements.
6. Alleys shall have a minimum right-of-way width of 20 feet and a minimum pavement width of 16 feet. If alleys are provided, garage access shall be provided from the alley.

**Finding: Complies with Condition.** Myrtle Street is classified as a Local Street in the Oregon City Transportation System Plan (TSP). The exiting 60-foot-wide right-of-way (ROW) of Myrtle Street is adequate, since the zoning on the one side of the centerline is residential and the other is mixed-use the total row width required is 58 feet. The frontage along Myrtle Street, on the development's side of the centerline, shall be improved to have a 0.5-foot-curb, 5-foot-wide planter strip, 5-foot-wide curb sidewalk and a 0.5-foot-wide buffer strip. Roadway pavement within Myrtle Street, to and through the development property frontage, shall be no less than 20-feet wide (1-feet of pavement west of the centerline of Myrtle Street and 19 feet of pavement east of the centerline of Myrtle Street).

**Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*12.04.185 Street Design--Access Control.*

- A. A street which is dedicated to end at the boundary of the development or in the case of half-streets dedicated along a boundary shall have an access control granted to the City as a City controlled plat restriction for the purposes of controlling ingress and egress to the property adjacent to the end of the dedicated street. The access control restriction shall exist until such time as a public street is created, by dedication and accepted, extending the street to the adjacent property.
- B. The City may grant a permit for the adjoining owner to access through the access control.
- C. The plat shall contain the following access control language or similar on the face of the map at the end of each street for which access control is required: "Access Control (See plat restrictions)."
- D. Said plats shall also contain the following plat restriction note(s): "Access to (name of street or tract) from adjoining tracts (name of deed document number[s]) shall be controlled by the City of Oregon City by the recording of this plat, as shown. These access controls shall be automatically terminated upon the acceptance of a public road

dedication or the recording of a plat extending the street to adjacent property that would access through those Access Controls.”

**Finding: Not applicable.** No dead-end streets or streets that end at the boundary of the development are proposed or required for this development.

**12.04.190 Street Design--Alignment.**

The centerline of streets shall be:

- A. Aligned with existing streets by continuation of the centerlines; or
- B. Offset from the centerline by no more than five (5) feet, provided appropriate mitigation, in the judgment of the City Engineer, is provided to ensure that the offset intersection will not pose a safety hazard.

**Finding: Not applicable.** The existing street alignments meet the City requirements. This standard is met.

**12.04.194 Traffic Sight Obstructions**

All new streets shall comply with the Traffic Sight Obstructions in Chapter 10.32.

**Finding: Not applicable.** The existing street alignments meet the City requirements.

**12.04.195 Spacing Standards.**

**12.04.195.A.** All new streets shall be designed as local streets unless otherwise designated as arterials and collectors in Figure 8 in the Transportation System Plan. The maximum block spacing between streets is 530 feet and the minimum block spacing between streets is 150 feet as measured between the right-of-way centerlines. If the maximum block size is exceeded, pedestrian accessways must be provided every 330 feet. The spacing standards within this section do not apply to alleys.

**Finding: Complies as Proposed.** The proposed distances between intersections are within the ranges of this condition.

**12.04.195.B.** All new development and redevelopment shall meet the minimum driveway spacing standards identified in Table 12.04.195.B.

Table 12.04.195.B Minimum Driveway Spacing Standards

<b>Table 12.04.195.B Minimum Driveway Spacing Standards</b>		
<b>Street Functional Classification</b>	<b>Minimum Driveway Spacing Standards</b>	<b>Distance</b>
Major Arterial Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	175 ft.
Minor Arterial Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	175 ft.
Collector Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	100 ft.
Local Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	25 ft.
The distance from a street corner to a driveway is measured along the right-of-way from the edge of the intersection right-of-way to the nearest portion of the driveway and the distance between driveways is measured at the nearest portions of the driveway at the right-of-way.		

**Finding: Complies as Proposed.** The proposed distances between intersections are within the ranges of this condition.

#### *12.04.199 Pedestrian and Bicycle Accessways*

*Pedestrian/bicycle accessways are intended to provide direct, safe and convenient connections between residential areas, retail and office areas, institutional facilities, industrial parks, transit streets, neighborhood activity centers, rights-of-way, and pedestrian/bicycle accessways which minimize out-of-direction travel, and transit-orientated developments where public street connections for automobiles, bicycles and pedestrians are unavailable.*

*Pedestrian/bicycle accessways are appropriate in areas where public street options are unavailable, impractical or inappropriate. Pedestrian and bicycle accessways are required through private property or as right-of-way connecting development to the right-of-way at intervals not exceeding three-hundred-and-thirty feet of frontage; or where the lack of street continuity creates inconvenient or out of direction travel patterns for local pedestrian or bicycle trips.*

*12.04.199.A. Entry points shall align with pedestrian crossing points along adjacent streets and with adjacent street intersections.*

*12.04.199.B. Accessways shall be free of horizontal obstructions and have a nine-foot, six-inch high vertical clearance to accommodate bicyclists. To safely accommodate both pedestrians and bicycles, accessway right-of-way widths shall be as follows:*

- 1. Accessways shall have a fifteen-foot-wide right-of-way with a seven-foot wide paved surface between a five foot planter strip and a three foot planter strip.*
- 2. If an accessway also provides secondary fire access, the right-of-way width shall be at least twenty-three feet wide with a fifteen-foot paved surface a five foot planter strip and a three foot planter strip.*

*12.04.199.C. Accessways shall be direct with at least one end point of the accessway always visible from any point along the accessway. On-street parking shall be prohibited within fifteen feet of the intersection of the accessway with public streets to preserve safe sight distance and promote safety.*

*2.04.199.D. To enhance pedestrian and bicycle safety, accessways shall be lighted with pedestrian-scale lighting. Accessway lighting shall be to a minimum level of one-half foot-candles, a one and one-half foot-candle average, and a maximum to minimum ratio of seven-to-one and shall be oriented not to shine upon adjacent properties. Street lighting shall be provided at both entrances.*

*12.04.199.E. Accessways shall comply with Americans with Disabilities Act (ADA).*

*12.04.199.F. The planter strips on either side of the accessway shall be landscaped along adjacent property by installation of the following:*

- 1. Within the three foot planter strip, an evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average;*
- 2. Ground cover covering one hundred percent of the exposed ground. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees;*
- 3. Within the five foot planter strip, two-inch minimum caliper trees with a maximum of thirty-five feet of separation between the trees to increase the tree canopy over the accessway;*
- 4. In satisfying the requirements of this section, evergreen plant materials that grow over forty-two inches in height shall be avoided. All plant materials shall be selected from the Oregon City Native Plant List.*

*12.04.199.G. Accessways shall be designed to prohibit unauthorized motorized traffic. Curbs and removable, lockable bollards are suggested mechanisms to achieve this.*

*12.04.199.H. Accessway surfaces shall be paved with all-weather materials as approved by the city. Pervious materials are encouraged. Accessway surfaces shall be designed to drain stormwater runoff to the side or sides of the accessway. Minimum cross slope shall be two percent.*

*12.04.199.I. In parks, greenways or other natural resource areas, accessways may be approved with a five-foot wide gravel path with wooden, brick or concrete edgings .*

*12.04.199.J. The Community Development Director may approve an alternative accessway design due to existing site constraints through the modification process set forth in Section 12.04.007.*

*12.04.199.K. Ownership, liability and maintenance of accessways.*

*To ensure that all pedestrian/bicycle accessways will be adequately maintained over time, the hearings body shall require one of the following:*

- 1. Dedicate the accessways to the public as public right-of-way prior to the final approval of the development; or*
- 2. The developer incorporates the accessway into a recorded easement or tract that specifically requires the property owner and future property owners to provide for the ownership, liability and maintenance of the accessway.*

**Finding: Not Applicable.** Accessways are not required from this development. The block lengths in the area comply with this Chapter.

*12.04.205 Mobility Standards.*

*Development shall demonstrate compliance with intersection mobility standards. When evaluating the performance of the transportation system, the City of Oregon City requires all intersections, except for the facilities identified in subsection D below, to be maintained at or below the following mobility standards during the two-hour peak operating conditions. The first hour has the highest weekday traffic volumes and the second hour is the next highest hour before or after the first hour. Except as provided otherwise below, this may require the installation of mobility improvements as set forth in the Transportation System Plan or as otherwise identified by the City Transportation Engineer.*

- A. *For intersections within the Regional Center, the following mobility standards apply:*
  - 1. *During the first hour, a maximum v/c ratio of 1.10 shall be maintained. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.*
  - 2. *During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.*
  - 3. *Intersections located on the Regional Center boundary shall be considered within the Regional Center.*
- B. *For intersections outside of the Regional Center but designated on the Arterial and Throughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:*
  - 1. *During the first hour, a maximum v/c ratio of 0.99 shall be maintained. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.*
  - 2. *During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.*
- C. *For intersections outside the boundaries of the Regional Center and not designated on the Arterial and Throughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:*
  - 1. *For signalized intersections:*
    - a. *During the first hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.*
    - b. *During the second hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.*
  - 2. *For unsignalized intersections outside of the boundaries of the Regional Center:*
    - a. *For unsignalized intersections, during the peak hour, all movements serving more than 20 vehicles shall be maintained at LOS "E" or better. LOS "F" will be tolerated at movements serving no more than 20 vehicles during the peak hour.*
- D. *Until the City adopts new performance measures that identify alternative mobility targets, the City shall exempt proposed development that is permitted, either conditionally, outright, or through detailed development master plan approval, from compliance with the above-referenced mobility standards for the following state-owned facilities:*
  - I-205 / OR 99E Interchange*
  - I-205 / OR 213 Interchange*
  - OR 213 / Beaver Creek Road*
  - State intersections located within or on the Regional Center Boundaries*
    - 1. *In the case of conceptual development approval for a master plan that impacts the above references intersections:*

- a. The form of mitigation will be determined at the time of the detailed development plan review for subsequent phases utilizing the Code in place at the time the detailed development plan is submitted; and
  - b. Only those trips approved by a detailed development plan review are vested.
2. Development which does not comply with the mobility standards for the intersections identified in 12.04.205.D shall provide for the improvements identified in the Transportation System Plan (TSP) in an effort to improve intersection mobility as necessary to offset the impact caused by development. Where required by other provisions of the Code, the applicant shall provide a traffic impact study that includes an assessment of the development's impact on the intersections identified in this exemption and shall construct the intersection improvements listed in the TSP or required by the Code.

**Finding: Complies as proposed.** The applicant has provided a Traffic Analysis Letter. Staff concurs with this recommendation. Therefore, transportation analysis is not required.

*12.04.210 Street design--Intersection Angles.*

*Except where topography requires a lesser angle, streets shall be laid out to intersect at angles as near as possible to right angles. In no case shall the acute angles be less than eighty degrees unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least one hundred feet of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least fifty feet of tangent adjacent to the intersection unless topography requires a lesser distance. All street intersections shall be provided with a minimum curb return radius of twenty-five feet for local streets. Larger radii shall be required for higher street classifications as determined by the city engineer. Additional right-of-way shall be required to accommodate curb returns and sidewalks at intersections. Ordinarily, intersections should not have more than two streets at any one point.*

**Finding: Not applicable.** No new streets are proposed.

*12.04.215 Street design--Off-Site Street Improvements.*

*During consideration of the preliminary plan for a development, the decision maker shall determine whether existing streets impacted by, adjacent to, or abutting the development meet the city's applicable planned minimum design or dimensional requirements. Where such streets fail to meet these requirements, the decision-maker shall require the applicant to make proportional improvements sufficient to achieve conformance with minimum applicable design standards required to serve the proposed development.*

**Finding: Not Applicable.** No off-site street improvements are required.

*12.04.220 Street Design--Half Street.*

*Half streets, while generally not acceptable, may be approved where essential to the development, when in conformance with all other applicable requirements, and where it will not create a safety hazard. When approving half streets, the decision maker must first determine that it will be practical to require the dedication of the other half of the street when the adjoining property is divided or developed. Where the decision maker approves a half street, the applicant must construct an additional ten feet of pavement width so as to make the half street safe and usable until such time as the other half is constructed. Whenever a half street is adjacent to property capable of being divided or developed, the other half of the street shall be provided and improved when that adjacent property divides or develops. Access Control may be required to preserve the objectives of half streets.*

*When the remainder of an existing half-street improvement is made it shall include the following items: dedication of required right-of-way, construction of the remaining portion of the street including pavement, curb and gutter, landscape strip, sidewalk, street trees, lighting and other improvements as required for that particular street. It shall also include at a minimum the pavement replacement to the centerline of the street. Any damage to the existing street shall be repaired in accordance with the City's "Moratorium Pavement Cut Standard" or as approved by the City Engineer.*

**Finding: Complies as conditioned.** See findings from section 12.04.180 of this report.

*12.04.225 Street Design--Cul-de-sacs and Dead-End Streets.*

*The city discourages the use of cul-de-sacs and permanent dead-end streets except where construction of a through street is found by the decision maker to be impracticable due to topography or some significant physical constraint such as geologic hazards, wetland, natural or historic resource areas, dedicated open space, existing development*

patterns, arterial access restrictions or similar situation as determined by the Community Development Director. When permitted, access from new cul-de-sacs and permanent dead-end streets shall be limited to a maximum of 25 dwelling units and a maximum street length of two hundred feet, as measured from the right-of-way line of the nearest intersecting street to the back of the cul-de-sac curb face. In addition, cul-de-sacs and dead end roads shall include pedestrian/bicycle accessways as required in this Chapter. This section is not intended to preclude the use of curvilinear eyebrow widening of a street where needed.

Where approved, cul-de-sacs shall have sufficient radius to provide adequate turn-around for emergency vehicles in accordance with Fire District and City adopted street standards. Permanent dead-end streets other than cul-de-sacs shall provide public street right-of-way / easements sufficient to provide turn-around space with appropriate no-parking signs or markings for waste disposal, sweepers, and other long vehicles in the form of a hammerhead or other design to be approved by the decision maker. Driveways shall be encouraged off the turnaround to provide for additional on-street parking space.

**Finding: Compiles as proposed.** Myrtle Street is currently a permanent dead-end street, and the construction of a through street has been found by the decision maker to be impracticable due to topography and disproportional to the size of the proposed development.

#### 12.04.230 Street Design--Street Names.

Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names shall conform to the established standards in the City and shall be subject to the approval of the City.

**Finding: Not applicable.** No new street are proposed or required for this development.

#### 12.04.235 Street Design--Grades and Curves.

Grades and center line radii shall conform to the standards in the City's street design standards and specifications.

**Finding: Not applicable.** No new street are proposed or required for this development.

#### 12.04.240 Street Design--Development Abutting Arterial or Collector Street.

Where development abuts or contains an existing or proposed arterial or collector street, the decision maker may require: access control; screen planting or wall contained in an easement or otherwise protected by a restrictive covenant in a form acceptable to the decision maker along the rear or side property line; or such other treatment it deems necessary to adequately protect residential properties or afford separation of through and local traffic. Reverse frontage lots with suitable depth may also be considered an option for residential property that has arterial frontage. Where access for development abuts and connects for vehicular access to another jurisdiction's facility then authorization by that jurisdiction may be required.

**Finding: Complies as proposed.** The development is adjacent to an arterial street but access has been proposed through Myrtle Street which is Local Street.

#### 12.04.245 Street Design--Pedestrian and Bicycle Safety.

Where deemed necessary to ensure public safety, reduce traffic hazards and promote the welfare of pedestrians, bicyclists and residents of the subject area, the decision maker may require that local streets be so designed as to discourage their use by nonlocal automobile traffic.

All crosswalks shall include a large vegetative or sidewalk area which extends into the street pavement as far as practicable to provide safer pedestrian crossing opportunities. These curb extensions can increase the visibility of pedestrians and provide a shorter crosswalk distance as well as encourage motorists to drive slower. The decision maker may approve an alternative design that achieves the same standard for constrained sites or where deemed unnecessary by the City Engineer.

**Finding: Not applicable.** Curb extensions have not been deemed necessary for this development by the decision maker.

#### 12.04.255 Street design--Alleys.

Public alleys shall be provided in the following districts R-5, R-3.5, R-2, MUC-1, MUC-2 and NC zones unless other permanent provisions for private access to off-street parking and loading facilities are approved by the decision maker. The corners of alley intersections shall have a radius of not less than ten feet.

**Finding: Not Applicable.** No alleys are proposed.

*12.04.260 Street Design--Transit.*

*Streets shall be designed and laid out in a manner that promotes pedestrian and bicycle circulation. The applicant shall coordinate with transit agencies where the application impacts transit streets as identified in 17.04.1310. Pedestrian/bicycle access ways shall be provided as necessary in Chapter 12.04 to minimize the travel distance to transit streets and stops and neighborhood activity centers. The decision maker may require provisions, including easements, for transit facilities along transit streets where a need for bus stops, bus pullouts or other transit facilities within or adjacent to the development has been identified.*

**Finding: Not Applicable.** There are no nearby transit facilities.

*12.04.265 Street design--Planter Strips.*

*All development shall include vegetative planter strips that are five feet in width or larger and located adjacent to the curb. This requirement may be waived or modified if the decision maker finds it is not practicable. The decision maker may permit constrained sites to place street trees on the abutting private property within 10 feet of the public right-of-way if a covenant is recorded on the title of the property identifying the tree as a city street tree which is maintained by the property owner. Development proposed along a collector, minor arterial, or major arterial street may use tree wells with root barriers located near the curb within a wider sidewalk in lieu of a planter strip, in which case each tree shall have a protected area to ensure proper root growth and reduce potential damage to sidewalks, curbs and gutters.*

*To promote and maintain the community tree canopy adjacent to public streets, trees shall be selected and planted in planter strips in accordance with Chapter 12.08, Street Trees. Individual abutting lot owners shall be legally responsible for maintaining healthy and attractive trees and vegetation in the planter strip. If a homeowners' association is created as part of the development, the association may assume the maintenance obligation through a legally binding mechanism, e.g., deed restrictions, maintenance agreement, etc., which shall be reviewed and approved by the city attorney. Failure to properly maintain trees and vegetation in a planter strip shall be a violation of this code and enforceable as a civil infraction.*

**Finding: Complies with Condition.** Please refer to section 12.04.180.

*12.04.270 Standard Construction Specifications.*

*The workmanship and materials for any work performed under permits issued per this chapter shall be in accordance with the edition of the "Standard Specifications for Public Works Construction," as prepared by the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city, in effect at the time of application. The exception to this requirement is where this chapter and the Public Works Street Design Drawings provide other design details, in which case the requirements of this chapter and the Public Works Street Design Drawings shall be complied with. In the case of work within ODOT or Clackamas County rights-of-way, work shall be in conformance with their respective construction standards.*

**Finding: Complies with Condition.** The applicant is responsible for the project's compliance with the edition of the "Standard Specifications for Public Works Construction," as prepared by the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city, in effect at the time of application. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*12.04.280 Violation--Penalty.*

*Any act or omission in violation of this chapter shall be deemed a nuisance. Violation of any provision of this chapter is subject to the code enforcement procedures of Chapters 1.16, 1.20 and 1.24.*

**Finding: Not Applicable.** No violations have been identified.

**CHAPTER 12.08 - PUBLIC AND STREET TREES<sup>[2]</sup>**

*12.08.015 - Street tree planting and maintenance requirements.*

*All new construction or major redevelopment shall provide street trees adjacent to all street frontages. Species of trees shall be selected based upon vision clearance requirements, but shall in all cases be selected from the Oregon City Street Tree List or be approved by a certified arborist. If a setback sidewalk has already been constructed or the*

Development Services determines that the forthcoming street design shall include a setback sidewalk, then all street trees shall be installed with a planting strip. If existing street design includes a curb-tight sidewalk, then all street trees shall be placed within the front yard setback, exclusive of any utility easement.

A. One street tree shall be planted for every thirty-five feet of property frontage. The tree spacing shall be evenly distributed throughout the total development frontage. The community development director may approve an alternative street tree plan if site or other constraints prevent meeting the placement of one street tree per thirty-five feet of property frontage.

B. The following clearance distances shall be maintained when planting trees:

1. Fifteen feet from streetlights;
2. Five feet from fire hydrants;
3. Twenty feet from intersections;
4. A minimum of five feet (at mature height) below power lines.

C. All trees shall be a minimum of two inches in caliper at six inches above the root crown and installed to city specifications.

**12.08.020 - Street tree species selection.**

The community development director may specify the species of street trees required to be planted if there is an established planting scheme adjacent to a lot frontage, if there are obstructions in the planting strip, or if overhead power lines are present.

**Finding: Complies with Condition.** The applicant did not submit a street tree plan with their submittal. For 50 feet of frontage, two street trees are required. If adequate spacing is not available for two trees, the applicant may pay fee-in-lieu for one tree. Prior to issuance of a permit associated with the proposed development the applicant shall submit a plan for street trees in compliance with OCMC 12.08. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

**12.08.035 - Public tree removal.**

Existing street trees shall be retained and protected during construction unless removal is specified as part of a land use approval or in conjunction with a public facilities construction project, as approved by the community development director. A diseased or hazardous street tree, as determined by a registered arborist and verified by the City, may be removed if replaced. A non-diseased, non-hazardous street tree that is removed shall be replaced in accordance with the Table 12.08.035.

All new street trees will have a minimum two-inch caliper trunk measured six inches above the root crown. The community development director may approve off-site installation of replacement trees where necessary due to planting constraints. The community development director may additionally allow a fee in-lieu of planting the tree(s) to be placed into a city fund dedicated to planting trees in Oregon City in accordance with Oregon City Municipal Code 12.08.

Table 12.08.035

Replacement Schedule for Trees Determined to be Dead, Diseased or Hazardous by a Certified Arborist		Replacement Schedule for Trees Not Determined to be Dead, Diseased or Hazardous by a Certified Arborist	
Diameter of tree to be Removed (Inches of diameter at 4-ft height)	Number of Replacement Trees to be Planted	Diameter of tree to be Removed (Inches of diameter at 4-ft height)	Number of Replacement Trees to be Planted
Any Diameter	1 Tree	Less than 6"	1 Tree
		6" to 12"	2 Trees
		13" to 18"	3 Trees
		19" to 24"	4 Trees

		25" to 30"	5 Trees
		31" and over	8 Trees

**Finding: Complies with Condition.** There is one existing tree in the Myrtle Street right of way. It is not clear if the applicant intends to remove this tree. If the tree in the Myrtle Street right of way is removed, the applicant shall replace the tree or pay fee-in-lieu in accordance with Chapter 12.08.035. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

**CHAPTER 13.12 - STORMWATER MANAGEMENT**

*13.12.050 - Applicability and exemptions.*

*This chapter establishes performance standards for stormwater conveyance, quantity and quality. Additional performance standards for erosion prevention and sediment control are established in OCMC 17.47.*

A. *Stormwater Conveyance. The stormwater conveyance requirements of this chapter shall apply to all stormwater systems constructed with any development activity, except as follows:*

1. *The conveyance facilities are located entirely on one privately owned parcel;*
2. *The conveyance facilities are privately maintained; and*
3. *The conveyance facilities receive no stormwater runoff from outside the parcel's property limits.*

*Those facilities exempted from the stormwater conveyance requirements by the above subsection will remain subject to the requirements of the Oregon Uniform Plumbing Co*

*de. Those exempted facilities shall be reviewed by the building official.*

**Finding: Applicable.** The stormwater from the site will leave private property and will discharge into the ROW.

B. *Water Quality and Flow Control. The water quality and flow control requirements of this chapter shall apply to the following proposed uses or developments, unless exempted under subsection C:*

1. *Activities located wholly or partially within water quality resource areas pursuant to Chapter 17.49 that will result in the creation of more than five hundred square feet of impervious surface within the WQRA or will disturb more than one thousand square feet of existing impervious surface within the WQRA as part of a commercial or industrial redevelopment project. These square footage measurements will be considered cumulative for any given five-year period; or*
2. *Activities that create or replace more than five thousand square feet of impervious surface per parcel or lot, cumulated over any given five-year period.*

**Finding: Not Applicable.** The applicant has provided a site plan which shows that the development proposes to not create or replace more than 5000 square feet of impervious area. The proposed site improvements do not meet the threshold for requiring stormwater management improvements; however, additional impervious areas beyond what is proposed will likely trigger stormwater management requirements.

C. *Exemptions. The following exemptions to subsection B of this section apply:*

1. *An exemption to the flow control requirements of this chapter will be granted when the development site discharges to the Willamette River, Clackamas River or Abernethy Creek; and either lies within the one hundred-year floodplain or is up to ten feet above the design flood elevation as defined in Chapter 17.42, provided that the following conditions are met:*
  - a. *The project site is drained by a conveyance system that is comprised entirely of manmade elements (e.g. pipes, ditches, culverts outfalls, outfall protection, etc.) and extends to the ordinary high water line of the exempt receiving water; and*
  - b. *The conveyance system between the project site and the exempt receiving water has sufficient hydraulic capacity and erosion stabilization measures to convey discharges from the proposed conditions of the project site and the existing conditions from non-project areas from which runoff is collected.*

2. *Projects in the following categories are generally exempt from the water quality and flow control requirements:*
  - a. *Stream enhancement or restoration projects approved by the city.*
  - b. *Farming practices as defined by ORS 30.960 and farm use as defined in ORS 214.000; except that buildings associated with farm practices and farm use are subject to the requirements of this chapter.*
  - c. *Actions by a public utility or any other governmental agency to remove or alleviate an emergency condition.*
  - d. *Road and parking area preservation/maintenance projects such as pothole and square cut patching, surface sealing, replacing or overlaying of existing asphalt or concrete pavement, provided the preservation/maintenance activity does not expand the existing area of impervious coverage above the thresholds in subsection B of this section.*
  - e. *Pedestrian and bicycle improvements (sidewalks, trails, pathways, and bicycle paths/lands) where no other impervious surfaces are created or replaced, built to direct stormwater runoff to adjacent vegetated areas.*
  - f. *Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics.*
  - g. *Maintenance or repair of existing utilities.*

**Finding: Applicable.** The applicant has provided a site plan which utilizes pervious pavement and pavers so that the proposed development does not create or replace more than 5000 square feet of impervious area. The proposed site improvements do not meet the threshold for requiring stormwater management improvements; however, additional impervious areas beyond what is proposed will likely trigger stormwater management requirements.

- D. *Uses Requiring Additional Management Practices. In addition to any other applicable requirements of this chapter, the following uses are subject to additional management practices, as defined in the Public Works Stormwater and Grading Design Standards:*
  1. *Bulk petroleum storage facilities;*
  2. *Above ground storage of liquid materials;*
  3. *Solid waste storage areas, containers, and trash compactors for commercial, industrial, or multi-family uses;*
  4. *Exterior storage of bulk construction materials;*
  5. *Material transfer areas and loading docks;*
  6. *Equipment and/or vehicle washing facilities;*
  7. *Development on land with suspected or known contamination;*
  8. *Covered vehicle parking for commercial or industrial uses;*
  9. *Industrial or commercial uses locating in high traffic areas, defined as average daily count trip of two thousand five hundred or more trips per day; and*
  10. *Land uses subject to DEQ 1200-Z Industrial Stormwater Permit Requirements.*

**Finding: Not Applicable.** The proposal does not contain elements requiring additional stormwater management practices.

#### *13.12.080 - Submittal requirements.*

- A. *Applications subject to stormwater conveyance, water quality, and/or flow control requirements of this chapter shall prepare engineered drainage plans, drainage reports, and design flow calculation reports in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards.*
- B. *Each project site, which may be composed of one or more contiguous parcels of land, shall have a separate valid city approved plan and report before proceeding with construction.*

**Finding: Complies as Conditioned.** The applicant shall provide an engineered drainage plan, signed by a professional engineer in the State of Oregon, for review and approval to fully address all applicable Stormwater and Grading Design Standards. The applicant's engineer shall submit a completed Site Assessment and Planning Checklist, found in Appendix B of the Stormwater and Grading Design Standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

#### *13.12.090 - Approval criteria for engineered drainage plans and drainage report.*

*An engineered drainage plan and/or drainage report shall be approved only upon making the following findings:*

*A. The plan and report demonstrate how the proposed development and stormwater facilities will accomplish the purpose statements of this chapter.*

*B. The plan and report meet the requirements of the Public Works Stormwater and Grading Design Standards adopted by resolution under Section 13.12.020.*

*C. The storm drainage design within the proposed development includes provisions to adequately control runoff from all public and private streets and roof, footing, and area drains and ensures future extension of the current drainage system.*

*D. Streambank erosion protection is provided where stormwater, directly or indirectly, discharges to open channels or streams.*

*E. Specific operation and maintenance measures are proposed that ensure that the proposed stormwater quantity control facilities will be properly operated and maintained.*

**Finding: Complies as Conditioned.** The submitted plan does not fully meet the requirements of the Public Works Stormwater and Grading Design Standards adopted by resolution under Section 13.12.020. The development shall replace the entirety of the existing 6" stormwater main within Myrtle Street to 12" as required by the Public Works Stormwater and Grading Design Standards.

The development shall replace the existing 6-inch stormwater main within Myrtle Street, along the development property's frontage and to the outfall to the north with a 12-inch stormwater main. The outfall of the pipe shall have rip-rap as required by the Public Works Stormwater and Grading Design Standards.

The applicant shall provide a Private Stormwater Maintenance Covenant and Access Easement and an Operations and Maintenance Plan for the proposed pervious pavement to be recorded by the City and pay associated processing fees. Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

*13.12.100 - Alternative materials, alternative design and methods of construction.*

*The provisions of this chapter are not intended to prevent the use of any material, alternate design or method of construction not specifically prescribed by this chapter or the Public Works Stormwater and Grading Design Standards, provided any alternate has been approved and its use authorized by the city engineer. The city engineer may approve any such alternate, provided that the city engineer finds that the proposed design is satisfactory and complies with the intent of this chapter and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed by this chapter in effectiveness, suitability, strength, durability and safety. The city engineer shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any action granting approval of an alternate shall be recorded and entered in the city files.*

**Finding: Not Applicable.** The applicant has not proposed alternative design methods requiring special approval by the City Engineer. However, should the applicant propose such methods with the public facilities construction plan submittal, the proposal will be reviewed and approved by the City Engineer as required.

*13.12.120 - Standard construction specifications.*

*The workmanship and materials shall be in accordance with the edition of the "Standard Specifications for Public Works Construction," as prepared by the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city, in effect at the time of application. The exception to this requirement is where this chapter and the Public Works Stormwater and Grading Design Standards provide other design details, in which case the requirements of this chapter and the Public Works Stormwater and Grading Design Standards shall be complied with.*

**Finding: Complies as proposed.** The applicant has noted the requirement to follow city standards which are developed in compliance with the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city, in effect at the time of application.

## **CHAPTER 15.48 - GRADING, FILLING AND EXCAVATING**

*15.48.030 Applicability—Grading permit required.*

*A. A city-issued grading permit shall be required before the commencement of any of the following filling or grading activities:*

- 1. Grading activities in excess of ten cubic yards of earth;*
- 2. Grading activities which may result in the diversion of existing drainage courses, both natural and man-made, from their natural point of entry or exit from the grading site;*
- 3. Grading and paving activities resulting in the creation of impervious surfaces greater than two thousand square feet or more in area;*
- 4. Any excavation beyond the limits of a basement or footing excavation, having an unsupported soil height greater than five feet after the completion of such a structure; or*
- 5. Grading activities involving the clearing or disturbance of one-half acres (twenty-one thousand seven hundred eighty square feet) or more of land.*

**Finding: Applicable.** The development proposes grading and paving activities resulting in the creation of impervious surfaces greater than two thousand square feet.

*15.48.090 Submittal requirements.*

*An engineered grading plan or an abbreviated grading plan shall be prepared in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards whenever a city approved grading permit is required. In addition, a geotechnical engineering report and/or residential lot grading plan may be required pursuant to the criteria listed below.*

*A. Abbreviated Grading Plan. The city shall allow the applicant to submit an abbreviated grading plan in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards if the following criteria are met:*

- 1. No portion of the proposed site is within the flood management area overlay district pursuant to [Chapter 17.42](#), the unstable soils and hillside constraints overlay district pursuant to [Chapter 17.44](#), or a water quality resource area pursuant to [Chapter 17.49](#); and*
- 2. The proposed filling or grading activity does not involve more than fifty cubic yards of earth.*

*B. Engineered Grading Plan. The city shall require an engineered grading plan in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards to be prepared by a professional engineer if the proposed activities do not qualify for abbreviated grading plan.*

*C. Geotechnical Engineering Report. The city shall require a geotechnical engineering report in compliance with the minimum report requirements of the Public Works Stormwater and Grading Design Standards to be prepared by a professional engineer who specializes in geotechnical work when any of the following site conditions may exist in the development area:*

- 1. When any publicly maintained facility (structure, street, pond, utility, park, etc.) will be supported by any engineered fill;*
- 2. When an embankment for a stormwater pond is created by the placement of fill;*
- 3. When, by excavation, the soils remaining in place are greater than three feet high and less than twenty feet wide.*

*D. Residential Lot Grading Plan. The city shall require a residential lot grading plan in compliance with the minimum report requirements of the Public Works Stormwater and Grading Design Standards to be prepared by a professional engineer for all land divisions creating new residential building lots or where a public improvement project is required to provide access to an existing residential lot.*

**Finding: Complies as proposed.** The applicant provided a preliminary engineered grading plan demonstrating general compliance with the City's Public Works requirements for grading standards.

## **CHAPTER 17.47 - EROSION AND SEDIMENT CONTROL**

**17.47.030 - Applicability.**

*A. This chapter, which may also be referred to as "erosion control" in this Code, applies to development that may cause visible or measurable erosion on any property within the city limits of Oregon City.*

*B. This chapter does not apply to work necessary to protect, repair, maintain or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies, provided that after the emergency has passed, adverse impacts are mitigated in accordance with applicable*

standards.

**Finding: Applicable.** The applicant has proposed to construct a new subdivision with associated street improvements.

**17.47.060 - Permit required.**

*The applicant must obtain an erosion and sediment control permit prior to, or contemporaneous with, the approval of an application for any building, land use or other city-issued permit that may cause visible or measurable erosion.*

**Finding: Complies with Condition.** The applicant seeks approval of an application for land use which requires construction that may cause visible or measurable erosion. The applicant shall obtain an Erosion control permit prior to commencement of any construction activities. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

**17.47.070 - Erosion and sediment control plans.**

*A. An application for an erosion and sediment control permit shall include an erosion and sediment control plan, which contains methods and interim measures to be used during and following construction to prevent or control erosion prepared in compliance with City of Oregon City public works standards for erosion and sediment control. These standards are incorporated herein and made a part of this title and are on file in the office of the city recorder.*

*B. Approval Standards. An erosion and sediment control plan shall be approved only upon making the following findings:*

- 1. The erosion and sediment control plan meets the requirements of the City of Oregon City public works standards for erosion and sediment control incorporated by reference as part of this chapter;*
- 2. The erosion and sediment control plan indicates that erosion and sediment control measures will be managed and maintained during and following development. The erosion and sediment control plan indicates that erosion and sediment control measures will remain in place until disturbed soil areas are permanently stabilized by landscaping, grass, approved mulch or other permanent soil stabilizing measures.*

*C. The erosion and sediment control plan shall be reviewed in conjunction with the requested development approval. If the development does not require additional review, the manager may approve or deny the permit with notice of the decision to the applicant.*

*D. The city may inspect the development site to determine compliance with the erosion and sediment control plan and permit.*

*E. Erosion that occurs on a development site that does not have an erosion and sediment control permit, or that results from a failure to comply with the terms of such a permit, constitutes a violation of this chapter.*

*F. If the manager finds that the facilities and techniques approved in an erosion and sediment control plan and permit are not sufficient to prevent erosion, the manager shall notify the owner or his/her designated representative. Upon receiving notice, the owner or his/her designated representative shall immediately install interim erosion and sediment control measures as specified in the City of Oregon City public works standards for erosion and sediment control. Within three days from the date of notice, the owner or his/her designated representative shall submit a revised erosion and sediment control plan to the city. Upon approval of the revised plan and issuance of an amended permit, the owner or his/her designated representative shall immediately implement the revised plan.*

*G. Approval of an erosion and sediment control plan does not constitute an approval of permanent road or drainage design (e.g., size and location of roads, pipes, restrictors, channels, retention facilities, utilities, etc.).*

**Finding: Complies with Condition.** The applicant shall provide an Erosion Prevention and Sedimentation Control Plan prior to issuance of an erosion control permit. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

**CHAPTER 17.41 - TREE PROTECTION STANDARDS**

**17.41.020 - Tree protection—Applicability.**

1. Applications for development subject to Chapters 16.08 or 16.12 (Subdivision or Minor Partition) or Chapter 17.62 (Site Plan and Design Review) shall demonstrate compliance with these standards as part of the review proceedings for those developments.
2. For public capital improvement projects, the city engineer shall demonstrate compliance with these standards pursuant to a Type II process.
3. Tree canopy removal greater than twenty-five percent on sites greater than twenty-five percent slope, unless exempted under Section 17.41.040, shall be subject to these standards.
4. A heritage tree or grove which has been designated pursuant to the procedures of Chapter 12.08.050 shall be subject to the standards of this section.

**Finding: Not Applicable.** The proposed development includes a Minor Partition, therefore this section applies. However, this site does not contain any trees 6 inches or greater in diameter on site.

17.41.130 - Regulated tree protection procedures during construction.

**Finding: Not Applicable.** This standard is not applicable because the site does not contain any trees 6 inches or greater in size. As such, regulated trees are not present and tree protection is not required.

#### **CHAPTER 17.50 - ADMINISTRATION AND PROCEDURES**

17.50.030 Summary of the City's Decision-Making Processes.

**Finding: Complies as Proposed.** The proposed application is being reviewed pursuant to the Type III process. Notice was posted onsite, online, in a newspaper of general circulation, and mailed to property owners within 300 feet of the proposed development site.

17.50.050 Preapplication Conference

A. Preapplication Conference. Prior to submitting an application for any form of permit, the applicant shall schedule and attend a preapplication conference with City staff to discuss the proposal. To schedule a preapplication conference, the applicant shall contact the Planning Division, submit the required materials, and pay the appropriate conference fee. At a minimum, an applicant should submit a short narrative describing the proposal and a proposed site plan, drawn to a scale acceptable to the City, which identifies the proposed land uses, traffic circulation, and public rights-of-way and all other required plans. The purpose of the preapplication conference is to provide an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal. The Planning Division shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations as well as a written summary of the preapplication conference. Notwithstanding any representations by City staff at a preapplication conference, staff is not authorized to waive any requirements of this code, and any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the City of any standard or requirement.

B. A preapplication conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant must schedule and attend another conference before the city will accept a permit application. The community development director may waive the preapplication requirement if, in the Director's opinion, the development does not warrant this step. In no case shall a preapplication conference be valid for more than one year.

**Finding: Complies as Proposed.** The applicant held a pre-application conference (file PA 18-31) on August 7th, 2018. The land use application was submitted within 6 months of the pre-application conference. The application was deemed complete on March 1, 2019.

17.50.055 Neighborhood Association Meeting

A. Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents.

1. Applicants applying for annexations, zone change, comprehensive plan amendments, conditional use, planning commission variances, subdivision, or site plan and design review (excluding minor site plan and design review), general development master plans or detailed development plans applications shall schedule and attend a meeting with the city-recognized neighborhood association in whose territory the application is proposed. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended.
2. The applicant shall send, by certified mail, return receipt requested letter to the chairperson of the neighborhood association and the citizen involvement committee describing the proposed project. Other communication methods may be used if approved by the neighborhood association.
3. A meeting shall be scheduled within thirty days of the notice. A meeting may be scheduled later than thirty days if by mutual agreement of the applicant and the neighborhood association. If the neighborhood association does not want to, or cannot meet within thirty days, the applicant shall hold their own meeting after six p.m. or on the weekend, with notice to the neighborhood association, citizen involvement committee, and all property owners within three hundred feet. If the applicant holds their own meeting, a copy of the certified letter requesting a neighborhood association meeting shall be required for a complete application. The meeting held by the applicant shall be held within the boundaries of the neighborhood association or in a city facility.
4. If the neighborhood association is not currently recognized by the city, is inactive, or does not exist, the applicant shall request a meeting with the citizen involvement committee.
5. To show compliance with this section, the applicant shall submit a sign-in sheet of meeting attendees, a summary of issues discussed, and letter from the neighborhood association or citizen involvement committee indicating that a neighborhood meeting was held. If the applicant held a separately noticed meeting, the applicant shall submit a copy of the meeting flyer, a sign in sheet of attendees and a summary of issues discussed.

**Finding: Complies as Proposed.** The project is located within the Barclay Hills Neighborhood Association. The project was placed on the November 13<sup>th</sup> agenda of the Barclay Hills Neighborhood Association. The applicant included notes and a sign in sheet from the meeting.

*17.50.060 Application Requirements.*

**Finding: Complies as Proposed.** All application materials required are submitted with this narrative. The applicant has provided full-size and two reduced size sets of plans to accompany the submittal items.

*17.50.070 Completeness Review and 120-day Rule.*

**Finding: Complies as Proposed.** This land use application was submitted on January 22, 2019. The application was deemed complete on March 1, 2019. The City has until June 29, 2019 to make a final determination.

*17.50.090 Public Notices.*

**Finding: Complies as Proposed.** Staff provided public notice within 300' of the site via mail, newspaper, the site was posted with multiple Land Use Notices and posted on the Oregon City website. Staff provided email transmittal of the application and notice to affected agencies, the Natural Resource Committee and to all Neighborhood Associations requesting comment.

*17.50.100 Notice Posting Requirements.*

**Finding: Complies as Proposed.** The applicant provided a signed affidavit that the site was posted with the notice for at least the minimum requirement.

*17.50.140 - Performance guarantees.*

*When conditions of permit approval require a permittee to construct certain improvements, the city may, in its discretion, allow the permittee to submit a performance guarantee in lieu of actual construction of the improvement. Performance guarantees shall be governed by this section.*

*A. Form of Guarantee. Performance guarantees shall be in a form approved by the city attorney. Approvable methods of performance guarantee include irrevocable standby letters of credit to the benefit of the city issued by a recognized lending institution, certified checks, dedicated bank accounts or allocations of construction loans held in reserve by the lending institution for the benefit of the city. The form of guarantee shall be specified by the city engineer and, prior to execution and acceptance by the city shall be reviewed and approved by the city attorney. The guarantee shall be filed with the city engineer.*

*B. Timing of Guarantee. A permittee shall be required to provide a performance guarantee as follows.*

*1. After Final Approved Design by The City: A permittee may request the option of submitting a performance guarantee when prepared for temporary/final occupancy. The guarantee shall be one hundred twenty percent of the estimated cost of constructing the remaining public improvements as submitted by the permittee's engineer. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the city engineer.*

*2. Before Complete Design Approval And Established Engineered Cost Estimate: A permittee may request the option of submitting a performance guarantee before public improvements are designed and completed. The guarantee shall be one hundred fifty percent of the estimated cost of constructing the public improvements as submitted by the permittee's engineer and approved by the city engineer. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the city engineer. This scenario applies for a fee-in-lieu situation to ensure adequate funds for the future work involved in design, bid, contracting, and construction management and contract closeout. In this case, the fee-in-lieu must be submitted as cash, certified check, or other negotiable instrument as approved to form by the city attorney.*

*C. Duration of the Guarantee. The guarantee shall remain in effect until the improvement is actually constructed and accepted by the city. Once the city has inspected and accepted the improvement, the city shall release the guarantee to the permittee. If the improvement is not completed to the city's satisfaction within the time limits specified in the permit approval, the city engineer may, at their discretion, draw upon the guarantee and use the proceeds to construct or complete construction of the improvement and for any related administrative and legal costs incurred by the city in completing the construction, including any costs incurred in attempting to have the permittee complete the improvement. Once constructed and approved by the city, any remaining funds shall be refunded to the permittee. The city shall not allow a permittee to defer construction of improvements by using a performance guarantee, unless the permittee agrees to construct those improvements upon written notification by the city, or at some other mutually agreed-to time. If the permittee fails to commence construction of the required improvements within six months of being instructed to do so, the city may, without further notice, undertake the construction of the improvements and draw upon the permittee's performance guarantee to pay those costs.*

**Finding: Complies as conditioned.** The applicant shall submit a performance guarantee which is equal to one hundred twenty percent of the estimated cost of constructing the public improvements shown in a city approved construction plan submitted by the applicant's engineer. The estimated costs shall be supported by a verified engineering estimate and approved by the city engineer. The guarantee shall be in a form identified in Code 17.50.140.A of the Oregon City Municipal Code. The guarantee shall remain in effect until all improvements have been constructed and are accepted by the city.

The applicant shall provide a Maintenance Bond in the amount of 15% of the Final Cost Estimate of all public improvements constructed shown in a city approved construction plan submitted by the applicant's engineer. The estimated costs shall be supported by a verified engineering estimate approved by the City Engineer. The guarantee shall be in a form identified in Code 17.50.140.A of the Oregon City Municipal Code. The guarantee shall remain in effect for two years from the establishment of the guarantee and until accepted by the City.

**Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

#### **CHAPTER 17.54.100 – FENCES**

*A. Generally. Fence, hedge, or wall.*

- 1. Fences and walls—Fences and walls over forty-two inches shall not be located in front of the front façade or within forty feet of the public right-of-way, whichever is less. All other fences (including fences along*

*the side and rear of a property) shall not exceed six feet in total height unless as permitted [in] Section 17.54.100.B.*

2. *Hedges shall not be more than forty-two inches in the underlying front yard setback. Individual plants and trees taller than forty-two inches tall may be permitted provided there is at least one foot clearance between each plant.*
  3. *Property owners shall ensure compliance with the traffic sight obstruction requirements in Chapter 10.32 of the Oregon City Municipal Code.*
  4. *It is unlawful for any person to erect any electric fence or any fence constructed in whole or in part of barbed wire or to use barbed wire, except as erected in connection with security installations at a minimum height of six feet, providing further that prior written approval has been granted by the city manager.*
- B. Exception. Fence, hedge, wall, or other obstructing vegetation on retaining wall. When a fence, hedge, wall, or other obstructing vegetation is built on a retaining wall or an artificial berm that is not adjacent to or abutting a public right-of-way, the following standards shall apply:*
1. *When the retaining wall or artificial berm is thirty inches or less in height from the finished grade, the maximum fence or wall height on top of the retaining wall shall be six feet.*
  2. *When the retaining wall or earth berm is greater than thirty inches in height, the combined height of the retaining wall and fence or, wall from finished grade shall not exceed eight and one-half feet.*
  3. *Fences, hedges or walls located on top of retaining walls or earth berms in excess of eight and one-half feet in height shall be set back a minimum of two feet from the edge of the retaining wall or earth berm below and shall not exceed a combined height of eight and one-half feet.*
  4. *An alternative height or location requirement may be approved within a land use process for all non-single-family and two-family residential properties. The fence, hedge or wall shall be compatible with the adjacent neighborhood and achieve the same intent of the zoning designation and applicable site plan and design review process. In no case may the fence, hedge or wall exceed eight feet in height without approval of a variance.*

**Finding: Complies as Proposed.** The applicant proposes to remove the existing chainlink fence along the north property line. Note 8 on Civil sheet 3.0 calls for a 6 ft. wood fence along the property line. The fence is not in a front yard, therefore 6 feet is acceptable.

#### **CONCLUSION AND RECOMMENDATION:**

Based on the analysis and findings as described above, Staff concludes that the proposed minor partition, parking adjustment, and parking lot located 202 Molalla Avenue, identified as Clackamas County Map 2-2E-32CB Taxlot 07800 and 07300 can meet the requirements as described in the Oregon City Municipal Code by complying with the Conditions of Approval provided in this report. Staff recommends approval of file GLUA 19-00001 with conditions, based upon the findings and exhibits contained in this staff report.

#### **EXHIBITS:**

1. Vicinity Map (On File)
2. Applicant's Narrative and Plans (On File)
3. Public Comments
4. Letter from John Replinger (On File)
5. Easement diagram (to support Condition of Approval #22)